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The Washington Monthly

JULY/AUGUST 1979/$2.00

The Art Of The Leak:

From Judas Iscariot To Greg Schneiders

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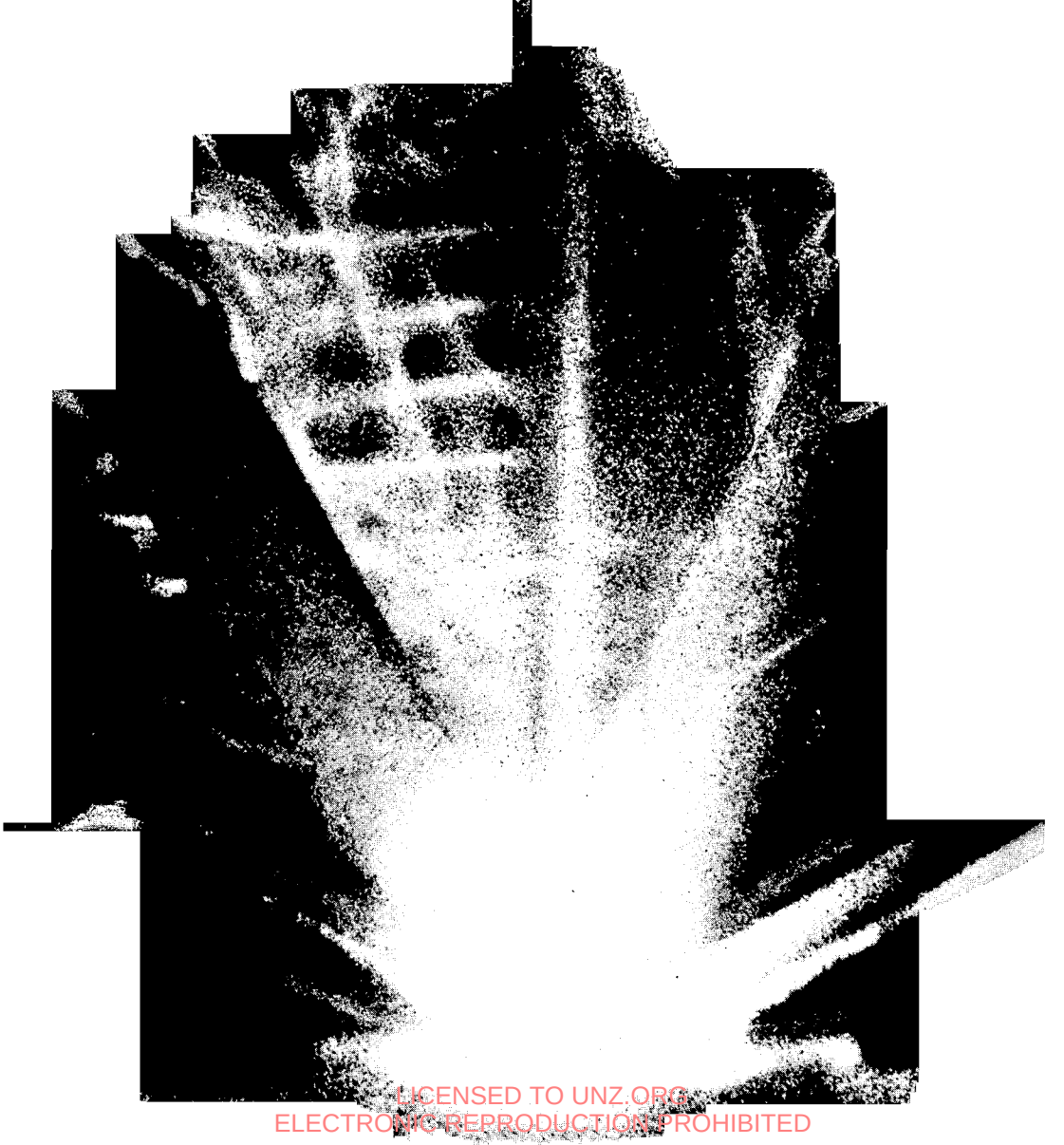

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Letters

H-Bomb Secrets

I have been hoping you would send some explanation of your (to me inexplicable) refusal to support *The Progressive* in its First Amendment fight. I find that explanation in your comments in the May issue, but you have some of the facts wrong.

Contrary to your assertion, Howard Morland's article, which we have been enjoined from publishing, is not an article "on how to build an H-bomb." It does not contain, as you allege, "all the scientific information about the H-bomb." As Gerard Piel, the publisher of *Scientific American* recently pointed out, providing that kind of information would require carloads of blueprints and computer printouts. Finally, if you (and the rest of the American people) had been better informed about the nature of the nuclear weapons program, you would understand that H-bombs can not be built by "terrorists." The huge, sophisticated, and enormously expensive industrial complex required is accessible only to a very large government. That is why only five countries have built the H-bomb. The so-called secret is, after all, more than a quarter of a century old and available to any enterprising researcher.

What disturbs me about your comments in the May issue is not that they are factually mistaken, but that you apparently based them on the Government's assertions, and took these assertions at face value. I have come to expect a much more thoughtful and skeptical approach from *The Washington Monthly*.

ERWIN KNOLL
Madison, Wisconsin

Erwin Knoll is editor of The Progressive.

The editor replies:

I do not wish to overstate the case against *The Progressive* and am glad to note Erwin Knoll's corrections of what I wrote in "Tilting at Windmills" in May. If, however, the article is not "on how to build an H-bomb," it does seem to be about "How a Hydrogen Bomb Works," or at least that is the title the government alleges was on the manuscript submitted to it.

The government's concern about *The Progressive* article is supported by this affidavit from the head of the Non-Proliferation bureau of the Arms Control and Disarmament Agency: "Of all the manuscripts purporting to be unclassified that I have reviewed in my 12 years in this field, this one, if made public, appears to be the most flagrant dissemination of sensitive weapons design information and the most likely to damage U.S. interests in preventing the spread of nuclear weapons capabilities."

We have learned, alas, that government officials can lie or exaggerate. But, even if Erwin Knoll is right, as indeed I suspect he is, in saying that "the secret is... available to any enterprising researcher," my reaction is let the researcher do the work, don't help him. Even if, as has been revealed, the information was lying around in public files in Los Alamos for four years, why have it lying around in 40,000 copies of *The Progressive* now?

Most of the press seem to feel that the accidental four-year declassification of the H-bomb data somehow destroys the case against *The Progressive*, because the information, once in the public domain, can never be snatched back, no matter what damage it might cause. But does anybody know if anybody actually read the secrets while they were "public" at Los Alamos? What the incident confirms is the validity of the assumption that all governments are inept. It seems perfectly plausible to me that during the crucial four years, foreign spies were busy fruitlessly digging tunnels, planting bugs, seducing secretaries, and bumping their heads on the shelf with the vital material while they stealthily perused some harmless document on the rack below.

My friends in the liberal press apparently are fixated on the idea that an absolute ban on prior restraint of any sort of publication is the heart of the First Amendment. To me, the heart of the First Amendment is absolute freedom of *political* discussion, for as long as we have that freedom we have the means of maintaining and expanding all other liberties. So I would argue that the First Amendment absolutely forbids the prior restraint—or subsequent punishment—of political speech. But technical military secrets do not usually fall into this category, and often there is much to be gained, and little harm, in keeping them secret. Prior restraint should not be the issue in these cases—if the disclosure of a military secret really does damage the national security, does the First Amendment really say the government can punish you for revealing it, but is powerless to stop the damaging revelation in the first place?

On the other hand, we must always maintain the political freedom to argue against government secrecy, and when a political argument cannot be made without revealing a military secret, then, it seems to me, the First Amendment does come into play to support the disclosure. But this does not appear to be the situation with the *Progressive*'s material on the bomb. Of all the eloquent restatements of the argument of the *Progressive* article, not one has suffered the least bit from the absence of technical information.

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Tilting at Windmills

One of the reasons designer and brand names are now on the outside of clothing is that in modern America people tend to define themselves by their taste. This is particularly so in the big cities, where, if you want to impress that interesting-looking man or woman at the crowded party, you have to flash your taste badges fast. Of course, when the flashing is done too aggressively, it turns into a series of put-downs that may intrigue but might alienate the other person. A marvelous example of the latter occurs in Diane Keaton's first scenes in *Manhattan.* She is obviously interested in demonstrating that she is more sophisticated than the people she's talking to, and it's great fun to laugh at her. A more subtle form of self-definition in terms of taste comes near the end of the film when Woody Allen recites the list that identifies him: Groucho Marx, Mozart's "Jupiter Symphony," Louis Armstong's recording of "Potato Head Blues," Flaubert's *Sentimental Education,* Willie Mays, Cezanne's still lifes of fruits. In contrast to Diane Keaton's, Allen's list is charming. You think exactly what you're supposed to think: what a wonderful interesting man this must be to have this delightful mixture of enthusiasms. The problem is that it's still badge-flashing. In the early scenes you thought Woody knew what was wrong with the gang at Elaine's. What develops, however, is that he simply knows how to play their game better than they do. . . .

Last year my wife and I were entertaining an out-of-town couple who were interested in getting an inside view of our national problems and what the government was planning to do about them. So we invited a mixture of journalists and public officials to dinner. At the end of the evening, the couple said it had all been delightful, but they hadn't heard a word about politics or government—Washington real estate had dominated the discussion all evening. Well, if anything, the situation is worse now. One wonders if anyone is tending to the government as the incessant trading in real estate consumes everyone's attention. Certainly, all those involved in the real estate game have an interest in not doing anything about inflation. Indexed salaries and pensions are what fuel the home-buying boom, because real estate mortgages are one of the best places to shelter ever-growing personal income. . . Just to give you an idea of what's going on, one out of three houses sold in Washington this year has gone for over $100,000. One out of ten has sold for over $200,000. Of course there are always a few losers in any market, but even they tell us something about what is going on. One

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of them is Rep. Stewart B. McKinney of Connecticut, who has purchased 19 local properties at a cost of $612,000. McKinney says, "One of the reasons I lost money is because I am in this frigging job," which presumably forced the congressman to become distracted from time to time from his real estate empire. . . .

The current rage for the roman a clef threatens to totally confuse modern history. Was J.P. Morgan the man described by Edgar Doctorow? Were the real Rosenbergs essentially the same as the people depicted in *The Public Burning*? The latest novel to raise this sort of question is *The Whole Truth* by John Ehrlichman, where a character the reader is supposed to recognize as Sam Ervin is revealed to be an evil old fraud who makes behind-the-scenes deals with a White House under congressional investigation. Is that what you really think of Ervin, Mr. Ehrlichman? And do you really know, as your book suggests, that George Gallup doctored poll results to suit Richard Nixon? Then why not make your accusations openly?

The Body Forum, a new magazine that crossed my desk recently, takes one back to the days when the relationship between advertising and editorial content was unashamed. In its July issue for example, there is an advertisement on page 14 with a headline reading, "How to Best Use Biotein H-3 to Regenerate Hair Growth." On page 15, there is an article praising Biotein as a way to stop hair loss. . . .

In his attempt to get to know the rank-and-file government employee better, Jimmy Carter invited 13 of them to the Oval Office in May. His reward: the American Federation of Government Employees has filed an unfair labor practice complaint against the President, alleging that he violated federal labor-management rules that require the government to negotiate with union representatives. . . . It used to seem that weighty seriousness was an inescapable part of political discourse, at least in the magazine world. We like to think a change for the lighter began with the arrival of *The Washington Monthly* in 1969. Certainly such a change is happening today—at the *New Republic* under Michael Kinsley, the *Nation* under Victor Navasky, and the *American Spectator* under R. Emmett Tyrrell. . . . That women care less about femininity today is well known. Still I was somewhat taken aback to find Barielle Nail Strengthener Cream selling itself as "based on preparations developed to strengthen horses' hooves." . . . There's always something to worry about. The British magazine, *New Statesman*, is rumored to have the list of Washington journalists who received gifts from Ardeshir Zahedi, the Shah's ambassador to the United States. Zahedi was supposed to have had $50,000 a month to spend on gifts to journalists and public officials. . . . Boston public schools now have a per pupil cost to the taxpayers of $3,898. The cost of private day schools in the Boston area averages $2,785 per pupil. . . . In California, similar figures have led to the next Proposition 13, a proposal on the ballot next year under which a parent would receive a voucher worth 90 per cent of the per pupil cost of public education and be free to use it in public, parochial, or other private, independent, or experimental schools.

My most cynical anxiety about book reviewers—that they don't read the books they are reviewing or that they do so with blinding prejudgment—was confirmed by Joe Klein's review of *Confessions of A Muckraker* in the May 29 *New York Times Book Review*. Klein says the book "is written in the jaunty, often painfully trite style that Pearson and Anderson popularized over the years." All of you who read the excerpt in our April issue, entitled "The Fall of the Republicans,"

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know that the book is written in a style that is James Boyd's alone, somewhere between baroque and rococo with a touch of Mark Twain thrown in. . . . I always try to rise above jealousy, envy, and related emotions. This is particularly so with my fellow magazine publishers, where temptation—"those bastards are stealing all our ideas"—is great. But sometimes I fail. Regular readers know that one such failure is inspired by the *National Geographic*'s tax-exempt real estate and low postage rates, juxtaposed with its high-salaried and high-living staff (white-coated waiters in the executive dining room, etc.). But I grow purplest when I contemplate the *Smithsonian* magazine. Let me explain. All of us in the magazine business look for inducements to get readers to subscribe. Sometimes we offer a free copy of our magazine, sometimes a free book. But consider what the *Smithsonian* offers: Free or discount tours, lectures, and discussions, with free parking and a "private buffet at the National Museum of Natural History," serving breakfast, lunch, and dinner. The dinner costs $4.25 (children $2.90) and the *Smithsonian*'s advertisement for it displays chefs with *toques blanches* presiding over tables laden with cuts of roast beef, melons, strawberries, crepes, and champagne. One is curious how all this is financed. Certainly the meals and most of the events take place in government-owned buildings. Anyway, I would very much like to be able to offer the readers of *The Washington Monthly* a $4.25 roast beef dinner the next time they're in town.

David E. Mann is our new hero. He is the assistant secretary of the Navy for research who has just embraced an old *Washington Monthly* cause, the smaller submarine. He says a six-volume Navy study shows that smaller nuclear-powered missile-firing submarines would cost 30 per cent less than the Trident. And if the Navy

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admits to 30 per cent, you can imagine how high a saving is really possible. . . .

For those investigative journalists who passed up the opportunity I offered them to pursue the connection between Vietnam and the copper-centered coin, I offer one more chance for fame and fortune. Who were the secret backers of the Ayatollah Khomeini? Who had the most to gain from the disruption of Iranian oil production and the resulting world shortage of petroleum? The oil companies? James Schlesinger? No. It's the Japanese car companies. In January they had 500,000 Subarus, Toyotas, Mazdas, Hondas, and Datsuns ready for sale in the United States. A statistician for *Ward's Automotive Reports* is quoted by *The Washington Star*'s Leonard Curry as saying, "There must have been a bunch of crazy optimists back in Tokyo." Now what self-respecting conspiratorialist would accept that explanation! . . .

I find myself in the embarrassing position of having a kind word to say about one oil company, Mobil. Its president, William P. Tavoulareas, has opposed Carter's decontrol program, urging the industry to forego price increases on oil already under production and recommending decontrol only for newly discovered oil. While it may be that Mobil has less to gain from raising prices on old oil than some other companies, its position on decontrol still represents a vitally important step toward truly constructive thinking by big business. The main way out of our present economic mess is incentives that are precisely tailored to create new plants and new production. Although I reject the goal of energy independence—I think we should keep our oil in the ground and use rationing to reduce demand and force down OPEC's prices—those who do accept that goal should realize that Tavoulareas has a better way of attaining it than Carter.

Richard Ofshe, who shared credit with Dave and Cathy Mitchell for the Pulitzer Prize won this year by the *Point Reyes* (California) *Light,* made this gracious observation to *The Washington Post*'s Paul Grabowicz:

"'Where else in the country would you get two people like the Mitchells, with MA degrees in journalism from Stanford University, working with myself, a professor from the University of California, on a paper like this? It wouldn't happen in some jerkwater little town in Indiana.'"

If there is a key intersection in the government at which the public interest is most likely to be sacrificed it is where the self-protecting bureaucrat and the self-promoting assistant secretary meet. As we have pointed out from time to time, the cabinet secretary is so busy conning the press, the president, and the congress that he has no time left to run his department. This executive function is performed by his assistant secretaries, so it is they who actually have the day-to-day job of leading and inspiring the bureaucracy. The problem is that the standard assistant secretary is not a politician who sees his future as dependent on the overall performance of his department

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Answers to last month's puzzle:

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and the administration of which he is a part, but a badge-collecting meritocrat who goes from job to job every two years or so, adding to his list of distinguished credentials. The practical problem is that he is interested only in performing in his present job for the year or so it takes to stir up the admiring talk that will bring the next offers. As he chooses and negotiates among these offers, his department suffers for his attention, his focus is no longer on it, so that by the time he has left for his next step up the career ladder, the department is in a shambles and he is often described as having left one step ahead of the sheriff. This second year in power is also often marked by extensive travel in the manner of the lame duck congressman who comes to feel the public owes him such rewards after all he's done. . . .

In addition to the small submarine, there is another long-time *Washington Monthly* cause that seems to be gaining wider acceptance. It is reform of the civil service. Jimmy Carter was the first prominent political leader to embrace it, but now he has been joined by the mayor of New York City and the governor of New York State. Both Koch and Carey are, like Carter, moderate reformers. But Malcolm Forbes, the editor-in-chief of *Forbes Magazine*, recently indicated he might be ready to go even further than *The Washington Monthly* and support a complete restoration of the spoils system. As most of our readers know, we favor an even mix between civil service and political appointees. But we would welcome Mr. Forbes' planting his flag at a more advanced position so we could assume the unaccustomed mantle of moderation.

I hope Forbes, Carter, Koch, and Carey saw the recent support for our position in this item from *The New York Times*: ". . . since the advent of the Civil Service, the Election Board is the only agency left that is—by order of law—politically divided, politically appointed. Paradoxically, it gets better marks for service than many municipal offices that are staffed through the 'merit system.' "

Carter complains about the public's refusal to believe what the government says about the energy problem. To help him understand why the people aren't more trusting, we offer this excerpt from an article by Merrill Brown that appeared in the business section of *The Washington Star* in early May:

"Federal officials admit they have collected only a small portion of the 'tens of millions of dollars' President Carter told the nation last week was already in federal coffers in connection with oil pricing fines. Although Carter said the funds would be used for federal programs to aid the poor, most of the money will never reach the Treasury and is, in fact, earmarked for refunds to consumers and oil industry concerns.

"A fact sheet distributed by the White House on President Carter's energy message last week says the Department of Energy has 'already collected $60 million' in connection with the oil overcharge cases and that the money will be used to aid low-income people victimized by high energy prices.

"When asked about the $60 million figure, one high-placed DOE official who declined to be identified said: 'I haven't the slightest idea where he got that from.'

"Another official, Paul T. Bloom, who heads DOE's Office of Special Counsel, said in an interview that only 'a couple of million dollars' is actually in the Federal Treasury as a result of the pricing violations." . . .

There is a nice touch of legislative sophistication in Ted Kennedy's regulatory reform bill. One of the great obstacles to such reform is that the congressional committees overseeing the regulatory agencies have become wedded to the status quo. Kennedy's bill provides that if committees don't act on a reform proposal within a certain time, the proposal will go directly to the floor for action by the entire House or Senate, whose members may have less stake in keeping

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things the way they are.... Marion Barry, the District of Columbia's mayor, has proposed a payroll tax to finance completion of the local subway system. This proves that Barry has never run a business. Otherwise, he would know that payroll taxes—the social security tax is one—can kill. Taxes on net income, on the other hand, cannot destroy a business. If you don't have a profit from which to pay the tax, you don't have to pay. It is unfortunately true of many liberals like Barry that their knowledge of business is so slight that they don't understand the difference.... Another problem businessmen have is a lack of employee empathy. In other words, their employees seldom put themselves in the bosses' shoes even when the boss is a relatively benign individual or organization. Take Antioch College, which was recently faced with bankruptcy and had to delay payment of faculty salaries for a few days. Did the professors offer to make sacrifices—did they even offer suggestions—to help the school out of its predicament? Of course not. They merely expressed "outrage" that the checks were delayed.

Philosophers have observed that sometimes bad motives produce good actions. One current example of this is that I'm sure all those illegal aliens I favor would have the borders slammed in their faces if it weren't that the Washington elite sees them as the answer to the servant problem....

According to David Burnham of *The New York Times*, who seldom gets things wrong, the Justice Department and the CIA are refusing to give Congress information about the disappearance of uranium from a nuclear plant at Apollo, Pennsylvania. If you read John Fialka's article, "The American Connection: How Israel Got the Bomb," in our January issue, you know that what is being hidden is evidence that Israel got enough uranium to make several nuclear bombs. Why should this information be kept from Congress? To spare Israel the embarrassment?... Because of the twice-a-year cost of living raises, 2,900 federal retirees now make more than anyone presently employed in the civil service. To paraphrase Nicholas Von Hoffman, only the United States government would give more money to those who don't work than it pays to those who do.

When did the federal bureaucracy turn into the lethargic, self-protective monster it is today? The tendency to become lethargic and self-protective has always been there, but the federal bureaucracy did not become monstrous in size until the 1933-1945 period. But then it was inspired by the struggle to defeat the depression and win the war, and by an exciting leader, FDR. The decline, it seems to me, began with the end of the war and the death of FDR in 1945. Truman may be remembered fondly today, but in the late forties he was not perceived as an exciting and challenging leader by federal workers. The loyalty program he established in 1947 was the first step toward making them value caution and keeping out of trouble. Then came the attack from Congress, from William Jenner and Joseph McCarthy, the Who Lost China mob. The defeat of Adlai Stevenson, who seemed to reawaken the idealism that had been dormant under Truman, in 1952 was the final blow. Eisenhower was not one of them. The result was that the ritualization of self-protection, the sense that the people at the top didn't share your goals, didn't understand or didn't care about your ideas—unless your ideas were Red, which meant you would be fired—all this became habitual in the fifties.

By the time Kennedy arrived, this bureaucracy had become set in its ways, and any flurry of ardor that may have stirred under JFK or in the first years of Johnson's Great Society was snuffed out by Vietnam and Watergate.

—*Charles Peters*

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Memo of the Month

MEMORANDUM

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
PUBLIC HEALTH SERVICE
NATIONAL INSTITUTES OF HEALTH

INSTRUCTION AND INFORMATION MEMORANDUM OERT 79-1

EXPIRES: December 31, 1979

Executive Secretaries of NIH Initial Review Groups

DATE: January 15, 1979

FROM : Associate Director for Extramural Research and Training, NIH

SUBJECT : Extension of INSTRUCTION AND INFORMATION MEMORANDUM OERT 77-5, Documentation Requirements for Summary Statements Involving Multi-project Applications (4500)

The expiration date of Instruction and Information Memorandum OERT 77-5, Documentation Requirements for Summary Statements Involving Multi-project Applications (4500) is hereby extended until December 31, 1979 and modified as follows:

Substitute the following paragraph for Section IV - Distribution of Copies of Summary Statements:

> In addition to the normal distribution of Summary Statements by the IRGs, a copy of Summary Statements for all IRG approved "P" applications and those "R" (except R25) and S06 applications which involve multi-projects shall be forwarded to the Data Processing Section, Statistics and Analysis Branch, Division of Research Grants, Room 120, Westwood Building, at the same time the other copies of Summary Statements are distributed.

I would also like to emphasize the importance of the IRG review and evaluation of each sub-project within a multi-project application. The resulting recommendations by the IRG on each sub-project are essential to the BIDs in making final pre-award funding determinations.

Finally, when preparing Summary Statements for applications involving sub-projects, one of the prescribed optional formats must be used for documenting the evaluation and critique requirements for each sub-project.

William F. Raub

William F. Raub, Ph.D

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A Letter to Jimmy Carter

by Charles Peters

Dear Mr. President:

I voted for you in 1976. And I plan to vote for you in 1980.

I trust you more than any of your opponents to make the right decision if we are threatened by nuclear war. You do not have the need to prove your toughness that we saw in Johnson and Nixon, even in Ford during the Mayaguez incident, and that I fear in Connally and Reagan. Unlike Edward Kennedy, you do not get drunk, nor do you have to worry about explaining from whose bed you may be called at the moment of nuclear decision.

But it is clear that my intention to vote for you makes me a member of one of America's most rapidly shrinking minorities. You face defeat next year. Your friends say you are bewildered, and beginning to feel mistreated by the American public. What's wrong with our country, you ask. Why won't anyone respond to the appeals you've made? And you come up with some of the right answers, like our growing fragmentation into selfish groups. But you aren't asking another important question: "What is wrong with me?"

That is a question most of us address seriously only for the briefest of periods, usually when we are threatened by some major loss, by, say, a mate who wants to divorce us or an employer who wants to fire us. While you seem even more serenely unaware of your faults than most people, you are threatened by the possibility of a major loss next year. So perhaps you will be receptive to what I have to say.

I am heartened by the evidence from Thomas a Becket to Gandhi that middle-aged men can change in signifi-

Charles Peters is the editor-in-chief of The Washington Monthly.

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cant ways. I am familiar with, indeed wrote about (in March 1979) one recent example of such change, because the man in question happens to be the leading figure in my own line of work, political journalism. He is Theodore White. From at least his adolescent years, there was in White a desire for acceptance by the establishment. As this desire grew, it began to affect his work, and his reputation declined. But he saw he was going downhill, faced what was wrong within himself, and has reclaimed his place at the top of his field.

So can you, Mr. President. Your character defect is just as innocent as his, truly insignificant in moral terms, but like his it threatens the quality of your work. I guess yours also goes back to adolescence or even earlier. It is the trait that is most evident in the slight exaggeration you give to how much your pulse has declined as you have taken up running, or how much your reading speed has increased; in your insistence that you do not suffer from jet lag, and your confession that 50 different people are all your best friends.

It is the trait of wanting others to be impressed by your abilities, rather than using your abilities toward an end; it is being the student still eager for an A, rather than the teacher with a lesson to teach.

It reminds me of a friend I had in school who used to claim he did 60 push-ups when he really could do a still respectable 45, who would say he always got As, when he really had received a few Bs, who felt he always had to act as if he knew the answer, even though sometimes he did not. More than anything else, he wanted to impress the teacher.

I think James Schlesinger saw that student in you and used your desire to win approval from him, the pipe-smoking professor, to sell you the energy program that has turned out to be your Bay of Pigs.

I know the Bay of Pigs comparison will shock you, but even if you are still convinced that your energy program is right, you must admit that you have failed to explain it to the people.

Schlesinger's approach to everyone he wants to impress, including you, is, "I'm so goddamn intelligent and arrogant that if I talk to you politely you can assume you are being recognized as a first-rate mind, and you can be sure no one else is worthy of inclusion in our dialogue."

John Kennedy was similarly awed by Allen Dulles. Both Dulles and Schlesinger made sure that potential critics of their programs within the government would not be informed fully enough or within sufficient time to mount effective opposition. And neither you nor Kennedy acted to make sure other advisors were informed and consulted in ways that were both timely and complete.

The tragedy is that, unlike Kennedy with the Bay of Pigs, you have not faced your failure. It's hard to learn from experience when you are the kind of student who is embarrassed to admit that his answer might not have been right.

I'm sure you have the kind of humility that can confess moral error—that can admit having lusted after women—but the humility you need is one that will permit you to acknowledge errors of judgment, to admit you gave the wrong answer.

It seems to me that you have set up the presidency as a school whose faculty—the Cabinet and White House staff—give you a series of multiple choice examinations—the decision memoranda that Nicholas Lemann described in these pages last fall. You give your decision, always the right one of course, and the press and public are supposed to stand up and cheer.

Well, it obviously isn't working out the way it was supposed to. Let's take a couple of examples I have reason to believe you might be willing to acknowledge.

The urban policy test your faculty presented to you in 1978 had one big deficiency. None of the multiple-choice answers was one that you wanted to choose. By not having taken the lead in developing the policy, you were stuck with options you didn't want: 160

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recommendations, none of which eliminated a single federal program, but which, in the words of *The Washington Post*'s David Broder, "guarantee more bureaucracy, regulation and frustration. . . ."

Earlier, in 1977, you told the faculty that you wanted welfare reform. Again, you gave no leadership on policy. All you told them was that the right answer, the box you would check, had to be a program that would cost little more than the existing one.

They came back with a program that was announced to the press as costing only $2.8 billion more. By the time the program was put in the federal budget the figure was $8.8 billion. Now the Congressional Budget Office estimates it will cost $17.4 billion. And my source in the Office of Management and Budget says it will finally be more like $28 billion.

These same faculty members—in the Domestic Council and at HEW—were responsible for coming up with a national health program that they could sell to you, remembering all the while that you want to balance the federal budget some day. Doesn't it seem likely that, since they believe in national health insurance even more intensely than they do in welfare reform, the $24.3 billion figure they gave you when your health insurance plan was announced last month is false—and not just a bit false—and that the plan will send us on our way to national bankruptcy?

A problem like health care is so big that sneaking through a few extra billions in the national budget isn't the way to face it; we must stop letting the providers of medical services set their own fees, but that won't happen until you become the teacher who makes

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this clear. Under the sneaking-it-through approach, nobody ever stands up to the special interests that have a stranglehold on a national problem—in this case the medical lobby.

The same is true with welfare reform and the whole problem of income maintenance for the poor: there is not enough money to do the job if we continue all the existing programs. We can take care of people below the poverty line, but we cannot afford to continue to pay social security, veterans' pensions, and unemployment compensation to people who don't need the money.

You can't simply proclaim such bold reforms from the White House, as you tried to proclaim the energy plan. If you did that, there would be panic. My 60-year-old aunt, who has been counting on that social security money to help finance her retirement home in Florida, would be outraged at the apparent threat to her long-laid plans, even though she could still get along without the money. So would my brother-in-law, who has put in 19 years in the Army and is counting on retiring next year. But if you explain the problem without demanding immediate wholesale reduction, I am convinced a vast constituency will rise to say we don't want the extra cost of social security or military retirement for people who are already comfortably fixed or who are too young to retire. We want to pay only enough money to cover those of us who are in actual need.

Many of our other major problems—from tax reform to productivity—are of this kind. The public needs to be educated. The problems need to be explained in full before there can be a chance of generating support for the changes that must be made.

A president who is a student at heart will always feel that he has to come up with the right answer. He will not feel compelled to involve others in that search; and whatever the student president comes up with—be it the most incremental of reforms or the most pragmatic of compromises—will be, in his view, *the* answer.

Ironically, your failure to involve the public can lead to your not getting credit when you deserve it. For example, in 1978 you sponsored a veteran's pension bill that for the first time recognized the principle, for some veterans at least, that the government should provide pension income for the needy but not for those who have adequate incomes—the very approach needed to eliminate the costly welfare for the middle class that our income maintenance programs have become. You didn't get the credit for this significant step—in fact your bill was condemned by such influential publications as *The Washington Post, Fortune, The Boston Globe,* and *The Wall Street Journal*—because you had not explained what you were doing.

In the case of your civil service program, your desire to present yourself as coming up with the right answer has caused you to conceal from the public that your bill was only the tiniest, most incremental step toward the massive changes that are required to restore accountability to the federal service.

But even the fullest explanation of the civil service, and the tax, and the health, and the income maintenance problems is not the entire answer. We need you to be more than a teacher, we need you to be the good preacher—the moral leader we all know this country must have if we're to overcome our fragmentation into self-seeking, paranoid groups—if we're to value sacrifice for the common good once more, if we're to think again that doing our best work is more important than the money we make and the titles we have.

What we need, Mr. President, to get started back on the right track is for you to get down on your knees and admit you have sinned—not in lusting after women, but in being the prideful student who seeks the As instead of the humble teacher who seeks to explain the problem to the people and involve them in its solution. This is the real humility you need—the humility that can save your presidency and save the country. ■

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The Art of The Leak

by Joseph Nocera

When Irwin Arieff first came to Washington nearly six years ago looking for work, the only thing he could find was a position in the press office of the newly-created Federal Energy Office. Arieff is now a reporter for *Congressional Quarterly,* and had wanted a reporting job then, but none was available, so he took the job at the FEO, figuring he could learn something about energy and make enough contacts in the process to find a job he preferred.

As a press officer, the bulk of Arieff's work was supposed to be writing press releases. But because energy was such a new issue, so poorly understood by just about everyone, he spent most of his time on the phone, talking to reporters, congressional aides, and lobbyists of various persuasions, helping them decipher FEO regulations and explaining how FEO decisions would affect things like the price of crude oil and the supply of natural gas.

At first, Arieff performed his job the way he thought his superiors wanted him to. He wrote releases that accentuated the upbeat and buried the negative, and in his dealings on the phone, he answered questions truthfully but cautiously, never volunteering information that reflected poorly on the FEO unless he had to. But before too long he began to have second thoughts about his role in the FEO press office. He started to see the agency, and particularly its head, William Simon, as pro-oil company, which offended his sensibilities, and he thought that a lot of FEO regulations were rigged to help the companies at the expense of the consumer. So after a few months, Arieff forgot about playing the loyal press agent, and instead assumed a role he felt much more comfortable in: he began to leak.

As a minor press officer, Arieff wasn't privy to much of what went on in the upper echelons of the agency, but he did his best with what he had. When a friend on Capitol Hill would call to get some facts and figures for an upcoming hearing, Arieff would supply him with what he wanted, and then volunteer a little nugget intended to embarrass FEO at the hearing. Other times he would leak proposed regulations. Once he wrote a lengthy press release explaining how a whole series of new regulations would mean a substantial increase in the price of oil. The press release was killed by Simon, and Arieff was told that nothing was to be put out on the new rules. That angered him, so on his lunch break, Arieff took a copy of the release to a friend at *The Wall Street Journal.*

Washington is a place full of people, like Arieff, who leak—and full of reporters who encourage them. Leaking, of course, goes on anywhere there is a newspaper and a city hall, but in Washington the volume of leaks is immense, and the course of government business is regularly influenced as a result of leaks. Every day stories are written in Washington containing information attributed to "sources" or "informed sources" or "administration officials" or "critics." Oftentimes, there are stories based on "documents

Joseph Nocera is an editor of The Washington Monthly. *He was assisted in the research for this article by Walter Jacob.*

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obtained" by some anonymous person in government. All of these stories contain leaks of some sort, each designed to put pressure on someone, or to change a decision, or to make the dynamics of an issue a little different than they were yesterday.

The reasons people leak are multiple and sometimes quite complicated; even in Arieff's relatively straightforward case, there were more factors involved in his decision to leak than a desire to stick it to the FEO. Certainly it was clear why he didn't announce embarrassing information "on the record": he would have been fired, and he couldn't afford to be unemployed. On the other hand, it didn't take him too long to realize that *leaking* was easy, almost a no-risk proposition. Even a new bureaucracy like FEO's was so vast and fragmented that it was nearly impossible to get caught, particularly once a document had been photocopied. And it seemed like everyone was leaking. Nobody at FEO talked about it, but you could tell just by reading the newspapers and trade publications.

Arieff also found he had much more in common with the reporters and congressional aides he leaked to than with most of his co-workers at FEO. He liked the people he talked to on the phone, respected some of them for the tough questions they asked, and found his loyalties shifting from FEO to them. When he leaked, he was helping out a friend; and in the back of his mind, he knew that having these friends wouldn't hurt him in his search for a better job.

In the grand scheme of things, Arieff's leaks were not the sort that would ruin Simon's career in government or bring down the FEO. Most leaks aren't. We all remember the big leaks—like Daniel Ellsberg, in what was probably the biggest leak of the decade, giving a copy of the Pentagon Papers to *The New York Times*. But before that dozens of people in the Johnson and Nixon administrations had leaked hundreds of smaller stories aimed at discrediting the war. Woodward and Bernstein had their Deep Throat, but there were also White House secretaries and low-level staff aides who were leaking what they knew about Watergate. Understanding the art of the leak in Washington means understanding more the Irwin Arieffs than the Daniel Ellsbergs. Once a decade an Ellsberg will leak a Pentagon Papers; all over the government, at every level, there are hundreds of people doing every day what Arieff did.

Doing It Right

People who leak regularly call it a "tool," or a "weapon," as much a part of what they do all day as writing a memo or attending a meeting. In the right hands, it *can* be an art form, a way of doing a dozen different things that can't be done either through on-the-record statements or through official channels within the bureaucracy. Done right, it makes the reporter an accomplice in the leak. "When you're leaking you can't paint in the corners with a first-rate reporter. You have to leave something for him to do so that he can feel that it is his story. Drop a couple of hints and run," says Tom Mathews, a former P.R. man for the Peace Corps, the Lincoln Center, and Common Cause.

Done right, it can also be a way of controlling the press. That certainly is how Henry Kissinger used leaks—as a way to punish his enemies in the press and reward his friends. Over at the Treasury Department, Joseph Laitin, the head of the press operation, is a masterful leaker, someone who keeps most of the tax reporters in this city busy by feeding them a steady stream of leaks, always with Treasury's spin on the ball.

Finally, leaks can be used to push a point of view or to affect policy. The most leaden-footed leaker in Washington right now is Zbigniew Brzezinski, Carter's national security adviser, who will try to give the reporter the whole story and try to conceal his purpose in leaking it. Good leakers don't hide their motives, and reporters trust them

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more if they understand their biases. Pierre Salinger was a master of the open approach. Right now, so are the people in the Pentagon who don't like the SALT II treaty and are leaking information intended to submarine it. It is no secret why they are leaking, but as long as the information is accurate, the leaks will get into the newspapers.

Although it goes on all the time, leaking is not the sort of thing people feel comfortable talking about, either in government or the press. Leaking is a clandestine activity; that's why most reporters won't talk about sources even with friends. The leakers I talked to were equally skittish about describing what they do. "Once I talk about leaks that have come from me," said one of them, "my effectiveness as a leaker is finished." William Safire, who was one of the few Nixon administration officials reporters could talk to with anything approaching regularity—and who now, as a columnist, thrives on leaks—would comment on the subject only long enough to suggest that I look up "leaks" in his book, *Safire's Political Dictionary*.

As it turns out, that's not a bad place to begin understanding leaks. As Safire defines it, a leak is a "disclosure of information, usually concerning government or political activity, through unofficial channels or what some consider improper means." Well, certainly, Safire's old boss, Nixon, had felt leaks were improper. But Nixon was different mostly in the extremity of his reaction. Leaks have been bothering presidents for as long as we've had presidents—ever since George Washington hit the ceiling after an important treaty negotiated with the British was leaked to a New York newspaper. The occasions when a president has rewarded a leaker have been rare indeed—the last recorded instance apparently coming in 1902 when Theodore Roosevelt promoted a young Navy lieutenant who leaked the abysmal state of the Navy's marksmanship.

In recent times, presidents have tended much more toward the Washington reaction. FDR and Eisenhower were always complaining about leaks, even though there really weren't that many of them during their administrations. Kennedy was a skillful leaker himself (*Newsweek* used to leave a space open each week for the leaks Kennedy would religiously give to Ben Bradlee), but would fly off the handle anytime there was a story in the *Times* he hadn't known was coming. Johnson was tormented by massive antiwar leaks to the point where he would get angry even at a leak that made him look good. He once gave his press secretary a severe tongue-lashing because Carl Rowan, then of *The Washington Star-News*, broke a story saying that Johnson was about to embark on a new push to enact civil rights legislation, hardly the kind of news that would embarrass the President.

Presidents don't like leaking, in part, because it gives them the feeling that the people around them are disloyal—and in that they are not much different from the rest of us. Judas, after all, was the first well-known leaker, and he gave the practice a pretty bad name. An agency head who sees some decision he made privately show up in *The Washington Post* two days later is bound to feel that whoever blabbed is a modern-day equivalent of Judas. Leaking makes working in an organization more difficult; you're never sure who's "on your side" and who's sticking a knife in your back. This is most strongly felt in small organizations where the people know each other and work closely together, and where the need to trust one's coworkers is essential. But it is also true in large organizations. Earlier this year, Nicholas Lemann, a contributing editor of this magazine, wrote a story for *Texas Monthly* about Exxon. Lemann had enormous difficulties finding people in the company he could interview. Exxon has a firm policy that no employees can talk to reporters without permission (which wasn't granted), and Lemann found that he couldn't even get employees to see him at their homes. No doubt, part of this was out of fear of what would happen if

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they were identified, but part of it also was that most of them had spent their working lives at Exxon and felt a good deal of loyalty to the company. They were loath to leak what they knew because they saw it as a shoddy thing to do after the good years they had had with Exxon.

So single-minded loyalty can reflect both feelings of high morale and sheer terror at the thought of getting caught. One doubts, for example, that there were very many leakers in the Gestapo. But because the American government is divided into three official branches, and two unofficial ones—the press and the lobbies—there is considerable confusion about where one's loyalties should lie, and that explains a lot about why Washington has such a sieve-like character. When a president gets angry about a leak, it is because he wants everyone in the government to feel the same kind of loyalty to him that the Exxon employee feels to Exxon. But it's not that simple in the government.

Even within one of the government's branches, there are a host of different places one's loyalties might lie. If you are, say, an employee in the Bureau of Engraving, you might see your loyalties running to the head of the bureau, or to the Secretary of the Treasury, of which the bureau is a part, or to the president. You might feel loyal to all of them, or to any of their deputies or assistants. You might also feel loyalty to the person or persons who got you a job, the congressional committee chairman who oversees your bureau, the lobbyists and businessmen you deal with in your job, and the reporter who covers what your bureau does. And, after all these obvious loyalties, there are other, higher, ones—to the American people, for example, or to the cause of international peace, or to God, or to some combination of these. Leaks can serve any of them.

Leaking For Your Country

Last fall, a man named David Sullivan leaked a study to Richard Perle, a member of Senator Henry Jackson's staff. Sullivan was a CIA analyst at the time, and a hawk; and the study, which was classified, contained information Sullivan thought was harmful to the arguments in favor of the SALT treaty. It looked to Sullivan as though the CIA was going to bury the study and keep its information secret, and he didn't want that to happen. His sense of propriety was such that he didn't want to give a classified study to a reporter, so he did what he thought was the next best thing: he leaked to Congress. In Perle, he had the perfect recipient—someone who not only was as anti-SALT as he was, but had a security clearance, and was acting, as he still is, as a magnet for all the people in the government looking for someplace to leak anti-SALT data.

This was a leak that quite clearly was motivated by Sullivan's desire to put what he thought were the interests of his country above those of his job, his agency, or his president. (Indeed, he lost his job after admitting that he had leaked the study; Congress, as well as the press, is an "unofficial channel" in Washington.) It was a leak with a "higher purpose." In all of the leaking that is done "for the country," there is inevitably some moral—and ideological—grounding. Much of this leaking is done to Congress, I suspect because one can be sure of finding someone on Capitol Hill with a sympathetic ideological bent who will applaud an act of conscience. In the early 1960s, there was the case, now nearly forgotten, of Otto Otepka, a rabid anti-communist in the State Department who persisted in leaking the names of State Department employees he thought had "Red" tendencies to Julien Sourwine, counsel to the Senate Internal Security Subcommittee. Ten years later, there was Ellsberg, leaking for country—though this time to the press—and also in the name of international peace.

One rung below the Ellsbergs and Otepka's in the "leak for the nation" category is a whole class of "official

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leaks" coming out of places like the State Department. At State, officials leak all the time about the status of negotiations, or about the U.S. reaction to some event overseas. These leaks are also designed to help the country; there are cases where the leak is about the only tactful way to tell the other side what you think about them without making them angry.

Leaking for the country might also involve using the so-called "disinformation leak," in which false information is given out in an effort to mislead an enemy. This is what the Allies did in World War II, setting up an elaborate system of leaks to make the Germans think we were planning to invade Calais instead of Normandy. The Allies planted notices in newspapers about nonexistent soldiers being given fictitious assignments, and they put to work a handful of double-agents to leak information to the Germans that convinced Hitler that the real threat lay at Calais. As a result, while Hitler's troops stayed at Calais, ours won at Normandy.

What Goes Up Comes Down

Most leaking in Washington moves upward, and that's largely because so little else in government does. Leaking is one of the few ways subordinates can get the attention of their superiors. When a congressional committee is about to hold a hearing, the staff often will leak the best parts of the testimony to the press in advance. That's done partly to arouse the interest of reporters in covering the hearing, but it is also a way of sparking the interest of the committee members themselves, in the hope that they will attend. In communicating to the top, a leak has an impact a meeting never will; it causes a response—an immediate response, not a cautious memo six months later.

Mostly, though, it is frustration that causes subordinates to leak, a frustration born of not being able to reach superiors through the chain of command. In late 1965, for example, people on the China desk at the State Department were worried about U.S. plans to bomb certain North Vietnamese targets close to the China border. They had tried to raise their objections the "right way"—sending memos to their superiors and hoping that their objections would be heard. But it was clear that they were getting through to no one—certainly not to the three men who counted most: Robert McNamara, Secretary of Defense; Dean Rusk, Secretary of State; and McGeorge Bundy, Johnson's national security advisor. So one day, when Max Frankel, who then covered the State Department for the *Times*, was making his rounds, they advised him to take a look at the recent issues of the Peking Daily, where warnings about such bombing were being printed. Frankel looked, saw the story, and wrote a front-page piece for the *Times*. Frankel's article, of course, infuriated McNamara, Rusk, and Bundy, but after their wrath had subsided, they held a meeting with the leakers and ended up changing the bombing plans.

In a larger context, the repeated disclosures by the antiwar leak network in the Johnson administration were another way of trying to influence the hearts and minds of their superiors. No individual leak was going to change everybody's minds on the war. The idea, however, was to get as much antiwar information in the papers as possible, so that public opinion would turn around, and, eventually, so that the people running the government, sensing the public mood, would also turn around. The most important leak from this network came from the Pentagon in February 1968, when reporters learned that General Westmoreland had sent a memo to Washington claiming that he would need an additional 200,000 troops if he were to have any hope of "winning" the war. The leak followed closely on the heels of the TET offensive, and it did a lot to reshape public opinion.

The leakers of the Johnson years were predominantly Pentagon and

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State Department officials, but they had their protectors and accomplices even in the White House. Two of them were Bill Moyers, Johnson's closest assistant, and Hayes Redmon, who was Moyer's chief aide. Both were men who considered themselves "loyal" to Johnson; both carried out his bidding. Indeed, Moyers did his job so well that it is now generally assumed that his rapport with the press staved off the enormous abuse and criticism that befell Johnson after Moyers left.

Neither Moyers nor Redmon were rabidly antiwar, but both felt a sense of unease about it. Leaking, and more importantly, protecting the people in the Pentagon and State who were leaking, was a way of getting a more balanced presentation of the war both to Johnson, who simply didn't want to hear bad news from his aides (though he would devour it in the newspapers) and to the public. Neither Moyers nor Redmon would express their ambiguities publicly—that would have been not only "disloyal," but suicidal in terms of their jobs—but they would give out little memos to reporters with information that was different from the official White House line. If giving out facts rather than opinions preserved a sense of loyalty, it did not avoid the issue, since the sentiment against the war eventually drove Johnson from the presidency.

It is not always the subordinates who leak; it can also be the boss leaking to get a message to his troops. When Robert Kennedy was Attorney General, he had a special problem with one of his supposed subordinates: J. Edgar Hoover. In particular, Kennedy was furious about Hoover's refusal to acknowledge the existence of the Mafia. So Kennedy and the lawyers at the Justice Department working on organized crime began to bring in reporters, a few at a time, to leak them specific bits of information—what was happening in New Jersey Mafia circles, for example, or what the New England don was up to. And soon enough, stories on the Mob began appearing in newspapers and in magazines like *Life* and *Look*. Hoover got the message, and soon stopped saying that organized crime didn't exist.

Bosses also use reporters to find out what their subordinates are doing. An example is Jay Solomon, who ran the General Services Administration for most of Carter's first two years. When he took the job, Solomon must surely have thought he was going to be running just another quiet bureaucracy, and indeed, he felt that way most of his first year, which he spent busily working on federal architecture and art acquisitions, his two passions at GSA. Then the scandal broke in the papers, and, instead of a nice civilized bureaucracy, he was in charge of what appeared more like a den of thieves. He had no idea whom he could trust and whom he couldn't, so his safest course was to leak. It was the one way he could be sure of finding out from reporters what was going on inside GSA. He developed a close working relationship with Ron Kessler, the *Post* reporter breaking most of the GSA stories, and the two of them combined to build the momentum that made the scandal too visible to be ignored. As a result, GSA by all accounts is being cleaned up—but Solomon is out of a job. His problem was that, in leaking as a means of bringing the scandal to fruition, he managed to ruin his relationship with *his* superiors, the people at the White House. When in one story last September Kessler wrote that "Solomon is known to have complained to aides that he has not been able to see the President as often as he would like," and that Solomon didn't feel that "the GSA investigations in Washington have been pursued as aggressively as they could be," Solomon's days as GSA head were numbered.

The Thought Doesn't Count

To give the impression that all leaks are done for some ennobling purpose, either to aid country or boss, or to get around impenetrable bureaucratic barriers, may leave out the most compelling reason of all: people leak

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for themselves. Because Washington is a city where the leak is such an accepted tool, people are inevitably going to use that tool for their own benefit—to advance their careers at the expense of someone else; to sidetrack a policy that cuts into their turf; in some cases, to get themselves out of hot water.

So here was John Dean, not one of recent history's more admirable figures, doing something that *was* admirable—leaking what he knew about Watergate. His motive was clear: he was trying to save his own skin, but the beneficiaries were *Time, Newsweek,* the dailies, the Watergate Committee, the Special Prosecutor's Office, and all of us who were getting little pieces of the tale Dean had to tell. Dean was worried about going to jail, so by parceling out bits of what he knew—and by implying that he knew a lot more—he could cut a better bargain for himself. Another famous self-promoting leaker during Watergate was Senator Lowell Weicker (and his staff), who had a list of about 50 newspeople and organizations (CBS was first, the *Times* second), that were called each day with scoops. What Weicker wanted was a chance to curry favor with the press, and during Watergate, leaking was far and away the best way to do that. Once as a joke, a Watergate staff investigator spotted a Weicker man walking toward him and said casually, "I hear the federal marshalls have surrounded the White House so they can subpoena Rosemary Woods." Within minutes, the investigator had received a call from CBS wanting to confirm the story of the marshalls who had surrounded the White House.

Unlike Dean's, however, Weicker's leaks did not always serve the public interest. It was difficult for the Watergate committee to pursue leads when they were being printed in the paper even as they were trying to track them down. It was almost impossible to catch people lying outright since they could all square their alibis with the stories in the paper. The small core of full-time committee investigators finally reached the point where they simply stopped asking sensitive questions of witnesses when there were certain of Weicker's aides sitting in. "It got to where we would end the interview, excuse the guy and then hope the people we didn't want in the room would leave. If they did, we would grab the witness back and ask him a half-dozen more questions," says one of the people who was asking the questions.

But personal motivation is not always as simple as saving your skin or promoting yourself. It can, in fact, get very murky. There are compulsive leakers, people who seem to give out information because they can't help themselves. There are leakers who get a vicarious thrill from seeing their quote show up in print, or reading about themselves described as "a presidential advisor" or "a senior staff member " or (best of all) "a member of the inner circle."

There is, finally, the leak as a means of building and nurturing a survival network, of making friends with people who some day are going to be able to repay the favor of those leaks. Most often these networks—and the resultant leaks—develop between a bureaucrat and people on the committee staff with oversight responsibility for the bureau. But they can also occur between a person in government and a lobbyist who makes use of the friendship of government officials in order to stay informed of events that might affect the people he represents. Lastly, survival networks develop between officials and reporters, both of whom know when they can do each other some good. James Fallows recalls that when he worked for the White House, at least part of the reason he talked to the press was that someday he would return to journalism. "I knew," he says, "that in the long run it would be better for me to have talked than not."

The current administration's most notorious leaker appears to be motivated by a combination of wanting to build his survival network, wishing to be seen as an insider, and helping the boss. He is Greg Schneiders, Gerald

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Rafshoon's assistant, one of the four or five people in the White House whom reporters can depend on for answers, quotes, or information. Schneiders' leaking began on the campaign trail, when he was Carter's gopher. A presidential campaign becomes a community of sorts—campaign workers, reporters, and technical people are all working and living together, and spending most of their time with each other. Friendships develop, and not coincidentally, so do sources. Schneiders was someone who had access to Carter and who liked the press, and so quickly became both source and friend. That remains true today. Richard Reeves calls him "a good friend." James Wooten, formerly of *The New York Times,* says he is "such a good friend I don't use him as a source." Curtis Wilkie of *The Boston Globe* claims: "He's the only personal friend I have in the White House."

The friendship serves both the reporters and Schneiders. They get a steady stream of news, and he gets, well, something that's not as concrete. Of all the people in the White House, Schneiders is the one who most wants to remain in Washington. In an interview he did two years ago with Sally Quinn, he said, "If I could pick any job, I'd probably have to say the Senate.... I would probably always want to be at a fairly high level of government service." Leaking to the press gives Schneiders the sense of being a Washington insider, and of building the kind of network that will help him long after the Georgians have left town. He *does* like these people, and what he is doing is not necessarily calculated. It is, nevertheless, a good long-term investment for him.

In the short term, he gets a kind of protection from his friends that other people in the White House don't get. After Fallows left as Carter's chief speechwriter, for example, there was a shakeup in the speechwriting office, and one of the people who lost his job was Jerry Doolittle, the man who had written most of Carter's jokes. Schneiders, who oversees the speechwriters, was quoted by Wilkie in the *Globe* as saying, "Jerry is a good speechwriter and he's a good personal friend. I know of no effort to force him out." Yet inside the White House, Schneiders had been complaining to anyone within earshot that Doolittle was a problem, he made too many cracks about Carter—in other words, he was disloyal. And that too showed up in the *Globe* story—"Doolittle... has a reputation for making wisecracks about Carter himself," Wilkie wrote—and it didn't take people on the speechwriting staff too long to figure out where that idea had come from. In fact, Schneiders himself makes cracks about Carter in the company of his reporter friends—to reporters it is one of his redeeming virtues. He is not the kind of person, they say, who gets defensive when the conversation turns to criticizing Carter. But Schneiders was allowed to criticize that same quality in Doolittle anonymously and get away with it. That's the benefit of being a source.

Judging by Results

Time magazine said a few years ago, on the subject of leaks: "A leak by a man of conscience, upset by wrongdoing and willing to take the consequences, deserves honoring. But most leaks serve the self-interest of those who supply them, or come from secondary bureaucrats appealing over their superiors to public opinion when their side of an internal argument has lost." *Time*'s implication was that these leaks, motivated by such baser considerations as self-interest, were worthy of scorn. But it is hard to see why. The mark of a good leak ought not to be motive but the result—not whether the leaker was driven by worthy or unworthy motives but whether the information leaked was worth leaking.

There *are* bad leaks, of course. Leaks from grand juries, for example, ought never occur because the whole purpose of a grand jury proceeding is to determine whether there is enough raw material on which to base an indict-

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ment. Leaking that kind of information can ruin the reputation of an innocent person. Neither should there be leaks from personnel files that are filled with tidbits, rumors, and innuendo. What was wrong with Otepka's leaks was not the *fact* of his leaking, but *what* he was leaking—information that was based on hearsay and suspicion, information that discredited people who had done nothing to deserve such treatment. The grossest example of this in recent American history was the kind of leaking done by J. Edgar Hoover, who, in the lowest moment (no easy honor) of his career, brought in reporters for private sessions and played the sex tapes of Martin Luther King that had been recorded by the FBI, hoping that someone would write a story about them.

That is the art of the leak at its worst, a leak so repugnant it reminds us again why we all think leaking can be wrong. To put leaks in perspective, we need to step back from the emotions aroused by such acts and look instead at a government that uses those feelings to keep us from knowing all the things that we have a right to know about it. We need to know about what policies are being considered in the government, and about who is incompetent in his work. There is no reason for us not to have such information. When Daniel Schorr leaked the Pike report on CIA misdeeds to the *Village Voice* he was excoriated by just about everyone, including the press. The moral, said *Time*, which is usually a good indicator of the prevailing winds, "was to show Congress' inability to keep a secret." But, in fact, the Pike committee had previously decided to release the report. It was only after the highlights of the report had been seen on CBS and printed in *The New York Times* that the Committee decided it shouldn't be released. But why? Both the committee's release, and Schorr's leak, only gave the public a better, fuller understanding of why the CIA had failed the country so badly. Yet the fact that the report was leaked—that Congress had somehow been betrayed—seemed to cloud the realization that there was nothing in it that should be kept secret.

Too often, this sense of betrayal is simply a function of a government that isn't as open as it should be. If presidents, Cabinet officials, and congressmen were willing to talk with the public, and with their own subordinates, about their thoughts and judgments while they were still in the tentative, pre-press-release stage, we wouldn't have to rely so much on leaks to get the kind of information we deserve.

Indeed, until government officials learn to replace a sensitivity to betrayal with a sensitivity to the value of involving the public in their decisions, leaks will be necessary to serve both the people, and, ironically, the officials themselves. It was fear of leaks, we should remember, that shaped the development of Carter's initial energy program. When he first came into office, Carter made the development of an energy policy a top priority—but then he let his energy advisor, James Schlesinger, convince him that the only way to develop a plan quickly was to do it in near total secrecy, under Schlesinger's exclusive control. That way, Schlesinger said, they could make sure the plans weren't leaked in advance.

There were no leaks of the energy plan—until it was too late to make any changes. In retrospect, this was hardly a service to Carter, and certainly not to the nation. Had the interested parties—the Cabinet secretaries, the White House staff, congressional officials—been let in on the planning, there would have been leaks galore—and the whole country would have been able to see the dimensions of the energy problem and assess the solutions that were being worked up. It is hard to imagine that the plan would have turned out to be the complete disaster that it was. So the next time you hear some government official complaining about leaks, take a stroll by the nearest gas station. Part of the reason that line is so long is that no one had a chance to leak. ■

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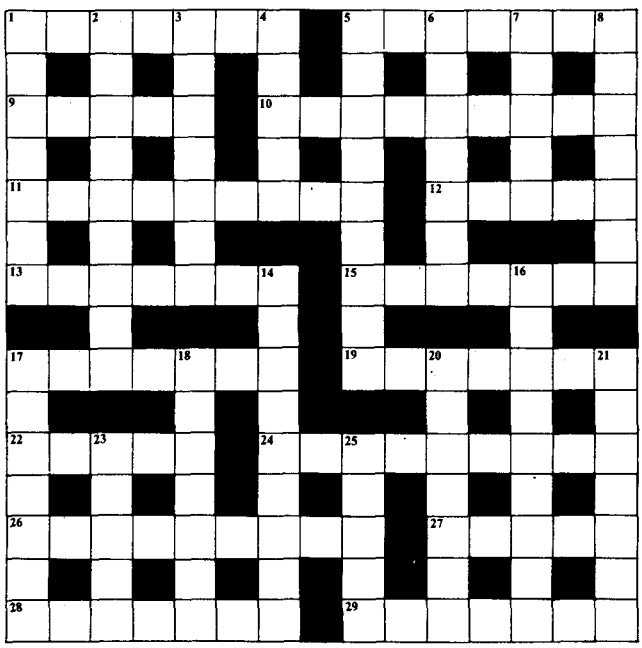
the political puzzle

by John Barclay



ACROSS

1. All Brie is made free. (7)
5. Extremist uses unending radio call. (7)
9. Element of conjunction in good French. (5)
10. He cancels awful sinful lie. (9)
11. This sharing with a Liz would be explaining. (9)
12. Rebid wildly for mate... (5)
13. ...and with wild cards it will be extreme. (7)
15. Most err somehow in predicting earthquakes. (7)
17. Moral: be not athletic in a certain way. (7)
19. Called up little foot in shaky dread.
22. Come back about the dog. (5)
24. One of my goals strangely is anti-mob. (9)
26. Toy railroad rite performed for district. (9)
27. Not, despite what you hear, our leading state. (5)
28. Cautious reconstruction of far clue. (7)
29. is to 28 as 5 is to 1. (2,5)

DOWN

1. Difficult boy takes in dull person. (7)
2. Clean up confused move in brash try. (4,5)
3. Sounded like governed disease? (4,3)
4. Verandah fit for an Ali. (5)
5. Banished for crazy greed tale. (9)
6. Bible doctor is made to move basketball. (7)
7. Cold meat dish? (5)
8. The bright sides of dirty old men? (7)
14. Does referee telephone turkey? (4,1,4)
16. Dealing with player contracts with particle in choosing. (9)
17. Synthetic car tire is not dependable. (7)
18. Welsh town could be in Madagascar difficulty. (7)
20. Try to arrange matte tepee. (7)
21. Go South in Sahara for ice. (7)
23. Leather-worker from 22 across. (5)
25. To a degree, you can create marshy area. (5)

The numbers indicate the number of letters and words, e.g., (2,3) means a two-letter word followed by a three-letter word. Groups of letters, e.g., USA, are treated as one word.

Answers to last month's puzzle are on page 8.

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The Screwing of the Average Man— Chapter XII:

It's The Little Things That Count

by Bonnie Goldstein

Has anyone out there, by any chance, heard of an individual named Lucille Ball? Not too long ago a bank in California was looking for this person, along with another individual named Bob Hope. The bank owed these people money that had been left in old accounts. But it eventually concluded they could not be reached. Obviously it wasn't looking very hard. Why should it? Would you look very hard for someone who had left some money with you and then evidently forgotten about it? Perhaps you would. But you are a warm-blooded, thinking, caring individual and not a heartless, profit-making corporation.

Thank goodness we have the government to protect us against the avarice of these private institutions. It has not escaped the notice of the various states that banks, insurance companies, utilities, and other private corporations within their borders accumulate money that belongs to other people who, for various reasons—such as not being told they're entitled to it—don't show up to claim it. There is as much as $25 billion in "lost" money waiting to be claimed in this country, sort of the loose change left in the abandoned coatpockets of America. This stockpile is increasing by about a billion dollars a year. If private corporations got to keep this loot, they wouldn't have much incentive to find the rightful owners, would they? So the states all have laws requiring these corporations to turn over unclaimed funds to the state treasury after a few years. The usual time limit is seven years, though New York, in its zeal to protect the unknown consumer, recently reduced it to five.

Bonnie Goldstein is a Washington writer.

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So the state takes your money away from that faceless, heartless corporation, tracks you down, and gives it back. Right? Not exactly. The state will, of course, give you back your money if you come and ask for it. But if you didn't even know you had $500 coming from the insurance company you'd been paying premiums to for years, you're not likely to just pop by the state treasurer's office on the off chance that somebody there has a little surprise waiting, are you? In the meantime, the state keeps your money nice and warm for you in its general revenues. In effect you're providing the government an interest-free loan. But that's the least you can do, after all, when you think of all the trouble it's gone to on your behalf.

Sometimes the state makes pantomime gestures at trying to find you, such as buying an ad in the back pages of the newspaper and listing the owners of unclaimed funds in several long columns of six-point type. You always read those, I'm sure. The state of New York (which netted $45 million in unclaimed funds last year and made at least an additional $9 million in interest on its accumulated holdings) advertises for the owners in a widely-read publication called the New York State Register. (What? You don't subscribe? No matter—a new edition is available every six months at any county office.) A state official says, "It's not practical to do more than that." No doubt the impracticality grows along with the size of the fund the state is using for free, and the interest rate it's not paying. For, after rescuing their citizens' lost money from the clutches of the private sector, most states manage to return an average of only 11 per cent of it.

A Bad Detective Story

To test how impractical it would be to track down the rightful owners of some of this unclaimed money, I went to the Maryland Department of Miscellaneous Revenues, where they maintain long lists of owners on microfilm. Scanning the names, I decided to pick out some and see how hard it would be to track a few down myself. I eliminated the obvious toughies, like "Cub Pack 14" or the "Volunteer Fireman's Christmas Club," and skipped over the most common names like Smith and Jones. I also restricted myself to amounts over $200. But, aside from that, the 15 names I selected were chosen more or less at random.

One of the first names on my list was a Ms. Diane Karavedas. According to the microfilm, she was the owner of $500 of equity in a life insurance policy taken out with Monumental Insurance of Maryland. I looked at the address given on the microfilm and checked the phone book for a Karavedas at that address. I dialed the number listed, and Ms. Karavedas' mother answered the phone. Yes, Diane was there—they had been living at the policy address for 33 years.

None of the others was quite that easy. Kenneth Leon of Baltimore, for example, was owed $550.60 by the Metropolitan Life Insurance Company, which the state of Maryland was kindly holding on his behalf. Finding him was not merely a matter of using the phone book: I had to call directory assistance. This same sophisticated technique worked for two other names in the Baltimore area. Another forgetful owner, Jacqueline Beuche, was listed as living in Accokeek, Md.—but she wasn't in the Southern Maryland Directory. I was stumped, until I noticed a John Beuche, listed for the town of Indian Head. I gave him a call; he turned out to be Jacqueline Beuche's father, and was only too happy to supply his daughter's married name and new address in Houston, Texas.

Soon I had found seven of the 15 names just by using the telephone book. My biggest effort was walking over to the Library of Congress to get an old Baltimore City directory, which led me to a pastor who had moved from a Baltimore church to one in Wilmington, Delaware. Still, the case of the peripatetic pastor took only 20 minutes to solve, not counting the trip

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Illustration by Walden

to the library. The others took less. With about two and a half hours work, I had reached almost half the people on my list and told them how to collect $3,100 in previously unclaimed property—including a $1000 life insurance policy belonging to a 69-year-old retired hospital janitor in Missouri. And I hadn't even tried some of the obvious angles that might be available—driver's license records, social security numbers, or morticians' files. If I had been expecting to play private detective, I was disappointed. I hadn't done anything that would earn a mention in even the most tedious Ross MacDonald potboiler.

Making It Easy

How does it happen that people who, unlike Lucille Ball and Bob Hope, are not rich, fail to collect money that they are entitled to? In the case of money left in banks (which accounts for $38 million—over half—of the money a state like New York takes in) the story is usually one of social mobility. People move and forget about relatively small amounts in savings and checking accounts left behind in local banks. (Of course this makes those tiny ads in the local paper all the more helpful.)

For the banks, however, just letting you forget about your money has its drawbacks. For one thing, you might remember it and show up one day to collect. For another, even if your money just sits there, the bank would eventually be required to turn it over to the state. So banks have been forced to improvise ways of getting *their* hands on your money before either of these two unfortunate eventualities occurs. The First National Bank of Boston chose a straightforward approach, automatically transferring all inactive accounts of less than $42 into the general banking fund. But the preferred solution takes the form of unadvertised "service charges" levied on small, dormant accounts. If skillfully designed, these charges can drain an account of all its cash before either the state or the owner comes calling. The Bank of America, for one, has obtained $14 to $20 million by this technique. Most banks defend these service charges as "standard banking policy" justified by the cost of auditing the accounts to prevent them from being pilfered by the bank's employees. Although it might be hard for you to tell whose hands had removed your savings, you would no doubt be relieved to learn that your money had been siphoned off by your bank and not its dishonest clerks.

Your insurance company may be even more efficient than your bank in this respect. Rather than count on people to forget about their money, insurers often simply don't tell them about it in the first place. Mr. Leon of Baltimore, for example, was the beneficiary of a life insurance policy bought by his parents shortly after he was born in 1946. Perhaps they told their week-old son about this addition to his financial portfolio, but apparent-

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ly it slipped his mind. For 19 years they paid the premiums, but then the Leons suffered a financial setback and had to stop. Kenneth Leon was notified that the policy had lapsed, but he was unaware that by paying for 19 years his parents had built up an equity of $550.60, to which he was entitled. It would probably have been too much to expect the insurance company to actually mail Mr. Leon his refund check along with his cancellation notice.

Of course, another common reason why life insurance payments stop is that the person who is paying them dies. If this person is also the one insured on the policy (for example when, like Kenneth Leon's father, you buy insurance to help support your children if you die), the moment the premium payments stop is also the moment the insurance company's big payout is supposed to start. Insurance companies, oddly enough, don't leap to this conclusion. There is no requirement that life insurance companies inform the beneficiaries of a life insurance policy that the policy exists. If the beneficiary happens to know about the policy, he or she can contact the insurance company and collect. Otherwise, the insurance companies, when they notice that payments have stopped, don't routinely inquire as to why. If they were to find out the policyholder had died, they would be required to make some effort to pay off—but what they never know, in this case, doesn't hurt them. Indeed, no one knows how much money the insurance companies make in this fashion, since there are no statistics on the number of paid-up policies in which the insured dies and no claim is filed.

A third major kind of unclaimed money is uncashed dividend checks paid out by corporations to their shareholders. The uncashed dividends are treated like unclaimed bank deposits and theoretically turned over to the state after seven years. But government officials suspect massive "non-compliance," and many large businesses (e.g. Standard Oil of California, J.C. Penney) have refused to open up their books to the auditors. Moreover, logic suggests that the reason the dividends aren't being cashed is that the stockholder doesn't know or has forgotten that he or she owns the stock. Corporations, like the insurance companies, don't find this sort of logic compelling. A few jurisdictions, however, have laws requiring the corporations to turn over the underlying stock, as well as the uncashed dividends, to the state for... er... safekeeping.

Where the laws are unclear, states and big corporations have been known to resort to litigation to determine which will get to guard the interests (and interest) of the absent-minded consumer or shareholder. New York State, for example, recently settled disputes with American Express and Citibank for a total of $10 million. California is winding up a suit against the Bank of America, trying to get its hands on the millions in service charges the bank has slapped on dormant accounts.

California (along with Minnesota) happens to be one of the few states that makes a genuine effort to find the owners of the lost property in its hands. As for the others, the reality is, well, disillusioning. Maybe you wouldn't be surprised to find that all the "good neighbors" and "good hands people" of the private sector—your banker, your insurance company, the corporation in which you own stock—will be only too happy to keep your money the moment you forget they owe it to you. But the government is supposed to be different. If, in my little experiment, I managed to return almost half the money owed in a few hours, what could a state—with its access to official records—do? One suspects a good faith search could easily be financed out of the interest the states earn on the unclaimed funds. Instead, we are treated to the uplifting spectacle of the government and businesses fighting over who will get some forgetful person's money, while the only thing that seems to slip everybody's mind is making the few phone calls necessary to return it. ■

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Tidbits and Outrages

It Must Be Because They Don't Have to Buy All Those Op-Ed Ads

Here's our favorite letter to the editor for the month. It's from Leslie Douglas. It was printed in *The Washington Star*—we wonder if Douglas sent it to the *Post*.

"*The Washington Post* in its editorials, news stories, and political cartoons, frequently has been critical of the level of profits of the oil companies. It may be of interest to compare the profitability figures for *The Post*, itself, with the five largest oil companies.

The most commonly used measures of profitability are *net income* as a percentage of sales and *net income* as a percentage of stockholders equity. Those figures as reported for the year 1978 are:

Company	Sales	Equity
Exxon	4.6%	13.7%
Mobil	3.2%	12.6%
Texaco	3.0%	9.0%
Standard Oil of California	4.8%	13.4%
Gulf Oil	4.4%	10.2%
Average	4.0%	11.8%
Washington Post	9.6%	28.0%

Making Your Case

Lawyers seem to be following the example of psychiatrists. According to the Associated Press, the Oregon State Bar Committee on Legal Ethics has issued a ruling that it would not necessarily be unethical for a lawyer to become sexually involved with a client "while representing her in a divorce action."

And Most of Our Expertise Is Registered to Vote

If you're a lobbyist for an organization that includes even a modest number of voters, you're going to get courteous treatment on Capitol Hill. Here's how Chairman Bill Nichols of a House armed services subcommittee greeted one lobbyist who was testifying before him recently:

"The Air Force Sergeants Association has always come before our committee to testify on many issues that concern your people, and you do a superb job at it. You certainly represent them well, and we appreciate the expertise that you bring on Air Force matters when our committee is in session. We look forward to your visits many, many times during the 96th Congress."

A Business-Labor Alliance That Works

Who is standing up to the Teamsters these days? Not the white hats in educational television. And not one of the world's largest banking organizations. Here's the story that got buried on page 37 of a recent issue of *The New York Times*:

"WNET-TV/Channel 13 and Citicorp were pressured by a teamsters' union official into taking business away from moving companies represented by a non-teamsters' union, according to evidence introduced at a trial in State Supreme Court in Manhattan. The teamsters' official and an accomplice were convicted last week of bribe-taking and attempted grand larceny in the case.

"Channel 13 broke a signed $35,000 contract with one of the companies, Bayshore Storage Warehouse Inc., in August 1978, after unionized construction workers refused to permit the delivery of materials for the renovation of the station's offices, according to testimony in the case. Channel 13 officials have acknowledged that they submitted to pressure from the teamsters and have cooperated with the Manhattan District Attorney's office.

"Pressure by the teamsters' official, Philip Doran, a trustee of Local 814 of the International Brotherhood of Teamsters, also led Citicorp to persuade two of its tenants in the Citicorp Center on East 53rd Street not to use another non-teamsters' moving company, according to evidence in the trial.

"A spokesman for Citicorp, the parent corporation of Citibank, the nation's second largest bank, issued a statement last week saying: 'Any suggestion we were implicated with the teamsters would be wrong.' The spokesman would not elaborate on the statement."

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CITIVIEWS

CITIVIEWS is distributed quarterly to Citicorp investors. It contains viewpoints on timely public issues. We believe the following may be of interest to you...

Pushing a String

A gardener trying to make the grass grow taller in the sparse patches on his lawn by cutting it shorter somewhere else might fairly be told that he doesn't know much about grass. Yet governments, in their persistent effort to control the distribution of credit in American society, repeatedly employ precisely the same method and with equally bad results. The danger of these exercises is that while no lawn is ever improved in this way, its healthy portions may be easily and severely damaged.

All governments, ancient and modern, have at one time or another been seized by an urge to use some form of credit allocation to make credit appear at a time or place where it would not otherwise go.

The problems with political credit allocation are intrinsic to the credit process itself. Credit exists because some people are willing to pay for the use of other people's money, and those others are willing to lend their money because they like to collect rent, in the form of interest, on property for which they have no immediate use. In the market thus created, each participant vigorously pursues his or her own self-interest; lenders, savers, and investors-consumers all try to achieve the highest possible return on their money, after taking due account of the risks, while borrowers strive with equally strong desire to minimize their interest costs. Efforts to allocate credit by government fiat come into conflict with these very human but relentless forces, and so governmental machinery for the allocation of credit never works.

This history of failure has not deterred the Government of the United States from trying repeatedly over the past fifty years to control the flow of credit by specific efforts to favor some borrowers and lenders while penalizing others. By recent count, these sporadic efforts have left us with some 150 laws and major regulations telling us what we may and may not do with our money. The restrictions most frequently encountered by the average citizen are those that limit the interest he can collect on his savings account, and that forbid him to be paid anything at all for the money he keeps in his checking account. Most regulations produce their effects more subtly and less directly, but the effects are pervasive and no one escapes their operation.

History is not lacking in examples from the past. Ever since mercantilism replaced feudalism the temptation to regulate labor, land and money has been irresistible. On May 6, 1795, the justices of Berkshire, England, met at Speenhamland. They set forth a scale of wage subsidies tied to the price of bread, so that a minimum income would be assured to workingmen irrespective of their wages. It was a time of great social distress in England, and the Speenhamland scales were intended as emergency measures. In

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short order, the subsidies spread through most of the country.

"No measure was ever more universally popular," according to the late Dr. Karl Polanyi. "Parents were free of the care of their children, and children no more dependent upon parents; employers would reduce wages at will and laborers were safe from hunger whether they were busy or slack; humanitarians applauded the measure as an act of mercy even though not of justice and the selfish gladly consoled themselves with the thought that though it was merciful at least it was not liberal."

In the long run the result was disastrous. Wage subsidies, paid from public funds, removed the floor from wage levels, which sank steadily until poor relief was preferable to working. The Speenhamland law was repealed in 1834.

There are many parallels in today's society to Speenhamland's attempt to push a string, well intentioned and potentially disastrous to all concerned.

Most citizens are unaware of the provisions of the Credit Control Act of 1969. This singular piece of legislation empowers the federal government to determine which citizens of the United States may borrow money, from whom, and how they are allowed to spend it. Not generally, but specifically and in detail. It arms the President with sweeping authority to license all lenders, register all loans, prohibit credit for purposes deemed inappropriate, prescribe maximum amounts of loans, establish maximum rates of interest, minimum down payments on purchases, and conditions for the repayment of loans. The government has never yet invoked these standby powers. But they are there, and others are now proposed.

The credit allocator's quandary is that, in the final analysis, he cannot hope to control anything unless he controls everything. If mortgage credit is cheap enough, the home owner can enlarge his mortgage and spend the money for anything he chooses, including the purchase of scarce commodities. Or a person can borrow on his or her life insurance at low interest rates set by law, thereby reducing the pool of funds that the insurance company has to invest in bonds and mortgages. To the committed allocationist the final solution is obvious: he must not only control the way our citizens lend or borrow money, but he must also control the way they spend it. And so on and on to price controls and the disasters of Speenhamland all over again.

There may be policy makers who believe this to be in the national interest, but it is doubtful that many citizens will find it to be in theirs.

* * *

A fuller discussion of this topic can be found in Credit Allocation: An Exercise in the Futility of Controls. *Copies of this Citibank study are available from Citicorp, Public Affairs Department, 399 Park Avenue, New York, N.Y. 10043.*

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How the People Lost Control

by Robert M. Kaus

Lawyers, to relieve the rigor and solemnity of their profession, like to give important judicial decisions silly names. There is the famous "hairy hand" case, the "ugly fountain" case, the "sedentary fish" case. And an important part of any lawyer's education is study of the celebrated "sick chicken" case. The sick chicken case, if you are not aware, is the 1935 Supreme Court ruling that struck down FDR's National Recovery Administration—the massive system of industrial "codes of fair competition" that was supposed to lead the nation out of the Depression.

In the folklore of the New Deal, the sick chicken case represents something of a low point. Not because of any particular drama in the facts before the court—a Brooklyn slaughterhouse accused of violating the NRA's "Live Poultry Code" by selling, among other things, an "unfit chicken." Not even because it spelled the death of the NRA—since by 1935 that program was falling apart anyway, both businessmen and consumers having lost enthusiasm for the codes.

No, the case was distressing because it seemed to mean that a conservative Supreme Court was on the verge of voiding, not only the NRA, but the whole New Deal. Roosevelt himself had confirmed this impression the day after the NRA ruling came down, at a press conference where he termed the decision a return to "the horse and buggy age." The ruling seemed to imply that the U.S. Constitution wasn't flexible enough to support the sort of government the President and Congress thought was necessary to pull the country through its worst economic crisis.

The story, at least as it is usually told in the law schools, has a happy ending of course. The Supreme Court eventually sees the light, with a small nudge from FDR, who threatens to expand the court and pack it with Democratic appointees. In 1937, a crucial Justice switches his vote to endorse New Deal legislation. One of the conservative judges retires, and a realigned Court proceeds to ratify piece after piece of unprecedented economic and social legislation. The New Deal is dealt; the Republic is safe. The class session ideally ends with the student a renewed believer in the genius of our laws, noting thankfully, along with Mr. Chief Justice Hughes, that the Founding Fathers wrote "a constitution intended for ages to come, and consequently, to be adapted to the various crises of human affairs."

Actually, the fledgling law student should be thankful on a more personal level, since he will quite likely be feeding his family for the remainder of his days by navigating through the administrative mess that was produced by the New Deal's variation on the Founding Fathers' handiwork. For what the lawyers are never bluntly told is that the experiment of adapting our

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Constitution to the politics of the New Deal has been a failure; it has given us a government that is inefficient, incompetent, and unpopular. It was a jerry-built system back in 1937, and each succeeding attempt to patch it up has only made things worse. For four decades, it has polluted our concept of democracy, shackled our political imagination, and distracted our potential leaders.

There are many ways to confirm this conclusion. You can listen to the protestations of Jimmy Carter as he struggles to control his own bureaucracy, or the equivalent complaints of Congressmen that they have lost their lawmaking power to unelected administrators. You can read the tortured opinions of our best modern judges, also unelected, as they attempt to supervise the output of those administrators. You can follow the glacial actions of the agencies themselves—(see, for example, Glenn Frankel's accompanying article on the Environmental Protection Agency's attempt to ban deadly poisons)—as they confront the varying demands of president, Congress, and court.

But one place to start is where the lawyers start, with the sick chicken case.

The High School Image

First, a little brushup on our civics. Our government, the Constitution tells us, has three branches; we are a democracy because the branch that makes the laws, the legislature, is composed of a Congress elected by the people. The president doesn't make laws, except in the negative sense implied by his veto power. He "executes" the laws made by Congress. The job of the judicial branch is to make sure the laws that Congress makes and the president executes are properly applied to individual cases, and don't violate the Constitution.

All this sounds elementary and a trifle naive. It is. Nevertheless, when we think of America as a democracy, I believe that what most of us have in mind is this high school civics image. Today, in the heat of regulatory battle, there is a habit of forgetting some of its more salient features—such as the fact that congressmen are elected and judges aren't. But back in 1935, it was the image that moved the Supreme Court to strike down the NRA.

You see, by passing the NRA, Congress had instructed every industry in the country to write up codes of industrial conduct to be signed into law by the president. The NRA was potentially a pervasive scheme of economic regulation the likes of which we haven't seen since. But the Court didn't argue that the government couldn't interfere with private property rights in this fashion. The problem was rather that Congress was telling someone else (the president) to go make the law (the codes)—*the Congress itself had never said what the law was.* Of course, there were some vague sentences in the statute about "fair competition" and "avoiding undue restriction of production (except as may be temporarily required)," but the judges weren't fooled. They knew that the legislature was throwing up its hands and, in effect, saying to the president, as Ingrid Bergman would say a few years later, "you'll have to do the thinking for both of us."

It didn't take much imagination to see that this sort of wholesale delegation of lawmaking power didn't fit very well into the traditional scheme of things. Here was the president, not only executing the laws, but writing them. Could he possibly supervise the process by which the codes were drawn up by the industry groups, or by his subordinates? More important, if Congress could delegate its power to Roosevelt, it wasn't clear where the process would stop. Congress might transfer to bureaucrats themselves the power to issue binding rules, without even requiring the president's signature. If so, what would happen to democracy, to the ideal that laws are legitimate because they are adopted by a majority of the people's representatives? These were troubling questions, troubling enough for the Court to put

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its collective foot down. "The Congress," agreed all nine Justices, "is not permitted to abdicate or to transfer to others the essential legislative functions with which it is . . . vested."

It was probably the last time that the Courts could afford to take seriously the idea that Congress actually votes on the rules that govern our society. In the years that followed the sick chicken case, as the New Deal swept the day, Congress passed statute after statute that effectively transferred its legislative power to some other governmental organ—to the executive branch, as with the Social Security Administration, to "independent" commissions, like the Securities and Exchange Commission, to *very* independent bodies, like the Federal Reserve Board. In retrospect, it is apparent that most of these agencies were created with only the vaguest hints from Congress as to what they were supposed to do—they were to make rules "in the public interest," to fix "just and reasonable" rates, to "assure the sound development of an air transportation system properly adapted to the needs of the. . . United States," etc. Later, whenever there was a problem to solve, Congress got into the habit of creating another agency and, in effect, saying "go solve it." Today's controversial array of federal agencies—from EPA and OSHA to the NRC—is simply the flip side of the sort of congressional abdication of power the Supreme Court had tried to prevent in 1935.

But if the country has become accustomed to the liberal distribution of congressional power, the questions that had troubled the judges about the NRA remained unanswered. The New Deal had added an element to the constitutional scheme that they hadn't counted on back in 1787: a massive federal bureaucracy. Nobody elected it, yet it exercised some of the powers of all three branches of government—writing binding rules, executing them, enforcing them in individual cases. Had this bureaucracy been anticipated, the authors of the Constitution, who feared unchecked power above all else, would undoubtedly have provided some firm limits on its power, and some way to ground that power in the votes of the people. But in 1937, it was rather as if an elephant had blundered uninvited into the delicate tripartite structure crafted by Madison and Hamilton. There was no room for it, nobody trusted it to behave itself—but there it was, and it looked like it was going to stay. There seemed to be no choice but to accommodate it, and to try to bring it under control.

Unfortunately, all that was left to control the new "fourth branch" of government was the three tired old branches the Founding Fathers had thought up. So, for the last 40 years, the history of the bureaucracy has consisted largely of the repeated and conflicting attempts of the courts, the president, and the congress to seize control over the agencies.

The Counterattack

Of the three sets of hands grabbing for the bureaucratic tiller, the most aggressive and effective has belonged to the courts. The judges had good reason to see the proliferation of boards and commissions as a challenge. The agencies were designed by the New Dealers, in part, as a way of bypassing a conservative judiciary, especially in the day-to-day administration of such sensitive statutes as the Wagner Act, which was entrusted to the newly created National Labor Relations Board. And the agencies were also supposed to be "specialized," "expert" bodies, run by "men bred to the facts," who could avoid legalistic complications to take quick, effective action in response to changing conditions.

When lawyers looked at this administrative ideal, however, they saw mainly the potential for arbitrary action, unchecked by the protective rituals of the courtroom. That it now takes over a decade to issue a rule on the labelling of peanut butter, 14 years

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to decide the fate of a single power plant, and two years (and still counting) to put into effect "emergency" restrictions on the use of benzene, is eloquent testimony to the ferocity of the judicial counterattack on the New Deal experiment.

At first, the lawyers tried to move the whole ballgame back to their home field, the American Bar Association urging in the mid-30s that "the decision of controversies must be brought back into the judicial system." But a subtler two-prong strategy soon developed. The first goal was to win for the courts, in as many instances as possible, the power to review and nullify agency decisions. The second was to make the process of agency decision-making look as much like a lawsuit as possible. Victory was assured in 1946 with the passage of the Administrative Procedure Act, granting the courts the power of review over almost all significant agency decisions, and specifying full-blown trial-type procedures within the agencies for most of them.

Still more formalities were improvised by judges over the next few decades as disappointed petitioners before the agencies complained to the courts that they had been denied this or that tactical advantage, that the agency had been "arbitrary and capricious" in failing to give adequate "weight" to their arguments, that the agency had considered a fact that was not mentioned in the "hearing record," etc. Soon, even the supposedly "streamlined" procedures for issuing broad agency rules were embroidered with rights of cross-examination, burdens of proof, requirements that the agency "respond to especially significant comments." "Judicial creativity," a leading scholar would remark, "has been on the whole about at its best in the area of administrative law." One line of particularly creative decisions, for example, operates to prohibit officials responsible for investigating and prosecuting violations at agencies like the FTC and SEC from talking to their bosses down the hall about their cases.

The entire process resembles a sort of slow motion marionette show, in which the courts, as the puppeteers, try to control the wayward agencies by awkward means of remote control. So, for example, the Environmental Protection Agency will spend two years or so haggling with the state of Idaho over the amount of sulfur dioxide a steel mill is allowed to release into the atmosphere. After hearing ad nauseam from scientists and technicians representing every interest in the controversy, the agency will pool its "expertise" and decide on a rule requiring that 82 per cent of the sulfur dioxide be cleaned up—at which point, everybody packs up his briefcase and heads over to the courthouse. After another two-year wait, a three-judge panel will decide that, "ever mindful of our limited authority in reviewing the [EPA] administrator's actions, we nonetheless reluctantly are compelled, on the basis of the record as augmented, to conclude that the administrator has not exercised 'reasoned discretion'. . . ." So the case is sent back to EPA, and the process starts all over again.

(If this particular proceeding sounds farcical, you should know that I was referred to it by an EPA attorney when I asked him for an example of the "average" delay due to judicial review of EPA's actions. "I just think that's life," he told me. "I don't think it's something that has to be reformed.")

For lawyers obsessed with the possibility that agencies might engage in the "abusive exercise of administrative power," the efforts of the judges must count as an unqualified success. The agencies are now so burdened with legalistic procedures that it is difficult for them to exercise much of anything, abusively or not. But to anybody who is interested in a working government, the system is little short of insane. Where the New Dealers had hoped to replace the inefficient courts with efficient agencies, we now have inefficient agencies *and* inefficent courts struggling (inefficiently) with each other.

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The complete triumph of judicial logic, however, was only achieved last November, when federal Judge Gerhard Gesell ordered Federal Trade Commission Chairman Michael Pertschuk to disqualify himself from the mammoth and costly proceeding Pertschuk's agency was conducting on the fairness of television advertising aimed at children. Pertschuk's sin: he held some opinions on the subject; worse still, he had expressed them in public. Since no self-respecting judge would ever dare let on that he had opinions—to do so, reasoned Gesell, would destroy the "appearance of impartiality"—Pertschuk, by failing to live up to this judicial ideal, had violated the constitutional rights of the advertising industry to a "fair hearing."

Gesell's ruling may have stripped away any last pretense that agencies like the FTC are accountable for their actions to elected officials, or to "the people." The New Dealers had at least allowed some room for democratic influence on agency actions. They would have recognized, for example, that President Carter quite probably appointed Pertschuk precisely because of his strong views on issues the FTC might take up (just as Carter may have appointed Alfred Kahn to head the Civil Aeronautics Board because he had some inkling—having read Kahn's economics textbook, perhaps—that Kahn would move to deregulate the airlines). By frankly stating his opinions, Pertschuk might not only let Carter know whom he was appointing, but also inform the public at large what its FTC chairman was up to. At the same time, the system was supposed to *liberate* men like Pertschuk to take bold actions, of exactly the sort Pertschuk proposed, on behalf of that public. Instead, Gesell made clear that administrators like Pertschuk are not to behave like, or be accountable to, anybody but judges.

And the reaction to the "Pertschuk ruling" was a good indication of the extent to which the judicial takeover of the agencies has been accepted by what would usually be called the "liberal" establishment. As lawyers across Washington gleefully moved to disqualify any regulator who had expressed anything more than the most wishy-washy opinions in his area of "expertise," *The Washington Post* chided Pertschuk for failing to walk the "delicate line" laid down by the courts. A few days later, in a more heavy-handed approach, *Post* publisher Katharine Graham gloated that the ruling "should... be a cautionary light to regulators to keep their enthusiasms and opinions within bounds." (Mrs. Graham was particularly disturbed that the FTC, in its unbounded enthusiasm, had been investigating newspaper advertising prices for possible antitrust violations.) Even at the FTC, the attitude was not generally one of outrage, but rather despair that Pertschuk had "shot himself in the foot" by violating administrative etiquette. But the sort of courageous regulator who would fit the apolitical straitjacket tailored by Gesell was best exemplified by Richard Daschbach, chairman of the Federal Maritime Commission, who told *The Washington Star* that he hadn't been troubled by Gesell's ruling because, thanks to legal training, "I've been cautious ever since I got here."

Although it has rendered the administrative process unworkable to the point of crisis, decades of judicial intervention probably haven't accomplished the goal of restoring public faith in the legitimacy of agency regulations. When he sees a federal judge block a highway that the Department of Transportation has approved, does the average citizen think, "Yes, the department may have failed to consider all the relevant factors, so the court had to remand the case for formal findings based on the whole rulemaking record"? Or does he think the judge probably thought the highway was ugly and should be stopped? Either way, does the citizen feel he has had any control over the decision by either the court or the agency? He would be a fool to do so, because he hasn't. The problem with government-by-agency is that it is undemocratic. Only a generation of finely trained

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legal minds would attempt to solve this problem by giving greater power to lawyers and judges.

Who's Boss?

Attempts by the president to control the agencies aren't nearly as ill-conceived as supervision by the courts. After all, most agencies are part of the executive branch, in name at least, and the president is supposed to be the boss of that particular operation. More important, presidential control offers to bring something new and innovative to the regulatory process: a minimal degree of coordination. New Deal commentators were afraid the Congress would delegate all its power to the president, giving him dictatorial authority, but they needn't have worried. Congress has instead doled out its lawmaking powers to scores of "single issue" agencies, each committed to controlling a particular problem, often to the exclusion of everybody else's. So, as David Ignatius has pointed out ["Who Killed the Steel Industry," *The Washington Monthly*, March 1979], the EPA can write rules that force steel mills to shut down in the industrial Northeast, while at the same time the Commerce Department struggles desperately to create jobs for laid-off steelworkers and the Labor Department requests more funds for job-training and unemployment compensation in the decaying mill towns. Some agencies, like EPA and OSHA, may even be forbidden by statute from considering many of the costs of the regulations they announce.

It was the potential for this sort of chaos that led the Roosevelt administration in 1937 to set up a central staff (including what is now the Office of Management and Budget) in the executive branch to "assist the President in developing and coordinating the organization and financing of the executive." Apparently the effort was less than successful, because in 1960 James Landis submitted to President-elect Kennedy a report recommending that he create another establishment in his office to "coordinate the policy planning of the various agencies." Kennedy ignored Landis' advice, but eight years later Richard Nixon dusted off the idea, ordering John Ehrlichman to set up what the Nixon administration called "Quality of Life Review" of agency actions. Nixon's use of the office to improve the quality of life of his potential business supporters gave the concept a bad name, and Jimmy Carter scrapped it when he came to power. Two years later, however, Carter went on national television and announced the formation of not one, but *two* groups in the executive branch with the familiar mission "to help ensure that regulations are well-coordinated, do not conflict, and do not impose excess burdens on particular sectors of the economy."

But we are a long way from the day when a president can, for instance, decide how many jobs he is willing to relocate to ease pollution, fire his administrators if they frustrate his policy, and take the political heat if he's made the wrong choice. For one thing, many of the nation's most important agencies—such as the Nuclear Regulatory Commission, the National Labor Relations Board, the Interstate Commerce Commission—are officially "independent" of presidential control. He cannot fire their top officials, he cannot reach them with his executive orders. In the "independents," in fact, the disdain for political accountability has received its clearest institutional expression. The logic behind them was perhaps best summed up by the Hoover Commission in 1949, when it defended them against attack with the curious argument that, to "maintain confidence in the democratic process," agencies should not be subject to "partisan or political influence."

The attempts of chief executives to control even their nominal subordinates have hardly been befitting of an Imperial Presidency. Carter's much ballyhooed "Regulatory Analysis Review Group," for example, will look at no more than ten to twenty regulations a year, out of 8,000-9,000 that are

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issued. If the president intervenes before an agency has reached its decision, he becomes just another supplicant to be heard out. If he intervenes after an agency has proposed a rule, he is invariably attacked by the offended interest group for having subverted the "expert" and "independent" administrative process through the use of "partisan influence." When Alfred Kahn and Charles Schultze attempted to get the Interior Department to delay its strip mining regulations, they were not only condemned—they were sued by the Natural Resources Defense Fund for "illegally" attempting to influence the bureaucrats at Interior. "Public interest" advocates like Alan Morrison issued statements accusing the President of overstepping his bounds. "Under my copy of the Constitution," Morrison complained, "the president is supposed to execute the laws." In *my* copy of the Constitution, I can find no mention of the Interior Department, the Environmental Protection Agency—or any other rule-making agency, for that matter. But never mind. Undoubtedly the environmentalists would have taken the same principled stand if Carter had, say, intervened with the Department of Energy to delay some rules that might encourage the spread of nuclear power.

Even if the lawyers and the Congress do let the president take charge of the "executive" agencies, which seems highly unlikely, the solution would be less than ideal. The presidency, while a democratic institution, is not a *very* democratic one. A single election every four years is a crude tool for the public to use to tell a man what they thought of the tens of thousands of regulations his subordinates issued over a four-year term. And it's not surprising that this is so, since the men who designed the presidency did not know that he would one day be called upon to supervise the detailed regulation of the national economy. If it's democracy we want, maybe we should turn to the most democratic institution the Constitution created: the Congress.

Deck Chairs and Vetos

If Congress gave us the administrative state by doling out its lawmaking power among the agencies, then Congress seems the logical place to begin bringing that power back under democratic control. And, these days, Capitol Hill does give the outward impression of being a beehive of creative thought on the topic of "regulatory reform." The congressional hopper is full of bills with serious, hopeful titles, like "The Administrative Rule Making Reform Act," the "Regulatory Control Act," the "Red Tape Reduction Act." Admittedly, some of these bills fall into the "deck chairs on the *Titanic*" category—they would take such dramatic steps as altering the time limits for public comment on proposed rules, or requiring written progress reports as the rules are developed.

But most of the other proposals would be a step backwards, if you accept the theory that the blanket delegation of Congress' power lies at the root of the bureaucratic problem. In this category must be counted the major legislative initiatives of President Carter and Senators Kennedy and Ribicoff, all of which would continue to rely on bureaucratic decisions, although they would require agencies to jump through a few more analytic hoops before issuing regulations. The added paperwork (Ribicoff's "regulatory impact analysis," Kennedy's "competitive impact analysis," or Carter's plain old "regulatory analysis")—like the "environmental impact statements" from which they descend—can be expected to have little effect aside from giving lawyers and judges another procedural stage to play around in, and increasing the business for the independent consulting firms that agencies regularly hire to perform the thankless task of provid- the satisfactory boilerplate.

Still other bills would subsidize the doomed attempt to turn agency procedures into a sort of pseudo-democracy,

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in which the tired old principle of majority rule is replaced with a "balancing" of the various special interests and "public" interests that are invited to come and pound their fists on the table. In one variant of this approach—that of Ralph Nader's now defunct "Consumer Protection Agency"—the Congress would have been reduced to setting up an agency to represent the public's interests before all the other agencies that already had been set up to do the same thing.

The only prominent reform proposal that at least attempts to win back some of Congress' power is the controversial, but increasingly popular, "legislative veto." The House repeatedly, though unsuccessfully, tried to impose it on several agencies last year, and the idea has caught on in the Senate this session. Although there are hundreds of variations, under the basic "veto" system agency rules wouldn't take effect if they were disapproved by the legislature within a few months after they were announced. But the executive branch bitterly opposes the legislative veto, claiming that it unconstitutionally deprives the president of *his* veto power. President Carter felt so strongly about the threat last year that he took to delivering lectures on the topic to students visiting the White House.

Whoever eventually wins the constitutional pissing match between the White House and Congress over the legislative veto, the reform seems a half-hearted solution to the problem of agency lawmaking. The veto might not enhance the power of Congress so much as that of the committee chairmen who control the fate of a veto resolution. And the veto would still allow laws to be made without either house of Congress ever voting for them.

But, most important, even if a legislative veto *did* restore some democratic accountability at the agencies, it wouldn't eliminate all the procedural detritus that the competing attempts of the courts and the president have deposited on our administrative system. It, too, is another layer. And, coming after the agency's "reasoned elaboration" and the president's "regulatory management," and before the judges' "searching and careful" review, a bit of democracy may be all it takes to make the whole absurd structure fall of its own weight.

Contemplating this system, lawyers are often moved to heights of scholarly rationalization. "A considerable part of the genius of American government," one law professor tells us, "lies in the fact that public policy has always been formed by a complicated Madisonian interplay between institutions of a majoritarian character and those of a non-majoritarian character." More often, there is a sense, in the writings and speeches of the experts on "regulatory reform," that it is a hopelessly complex, and probably just plain hopeless, task. Here, for example, are the final sentences of a 144-page essay on the subject in the *Harvard Law Review*:

> "On the other hand, it is quite possible that no new encompassing theory of administrative law will emerge. The instinct for satisfying integration may remain a vain shuttlecock between no longer tenable conceptions of administrative legitimacy and the exigent difficulties of the present which have so far eluded a consistent general theory. Given 'the undefined foreboding of something unknown' [citation to Hegel omitted], we can only know that we must spurn superficial analysis and simplistic remedies, girding ourselves to shoulder, for the indefinite future, the intellectual and social burdens of a dense complexity."

If you detect a note of satisfaction mixed in with the despair in this passage, you may not be too far off. When it comes to shouldering the intellectual and social burdens of a dense complexity, lawyers know who will get the call.

It's time to stop listening to these people. They have lived within the New Deal's crumbling building for so long, they can see no alternative. But now, no less than in 1935, we should realize that something must be done. And something *can* be done. We hope to talk about it in our next issue. ■

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The Tragedy of TOSCA: Chemical Poisoning the EPA Can't Control

by Glenn Frankel

The recent revelation that Hooker Chemical Company officials knew of the potential dangers of the Love Canal waste site some 20 years before disaster struck raises some familiar questions about the motives of men. Equally important, though, is the question of whether such acts could legally occur today. Supposedly not, thanks to the Toxic Substances Control Act, the landmark federal legislation of 1976 that, among other things, requires a company to report to the Environmental Protection Agency anytime something occurs that could cause a substantial risk to public health.

TOSCA, as it is known in bureaucratese, was passed at a time when even the chemical industry seemed to agree it needed some kind of policing. The poisoning of the James River with kepone was in the news, as were other, more insidious long-term disasters from substances like asbestos, PCBs, and a variety of pesticides, all unfortunate by-products of the chemical industry's explosive growth since World War II. The casualties from this public health nightmare are still with us: one soon-to-be-released National Cancer Institute study suggests that at least 20 per cent of the nation's cancer rate can be traced to industrial poisons of some kind. Air, water, schools, factories, and food have all been contaminated with substances too numerous to count, let alone remove.

After six years of debate, Congress thought it had the antidote. TOSCA, signed by a reluctant President Ford, is designed to force the industry to prove its chemicals are safe before putting them on the market. It requires the EPA to draw up an inventory of all chemicals and to compile data on their safety. If the agency believes a new substance is hazardous it can ban it. The manufacturer can challenge the ban in court, but the burden of proof is on the company, not the EPA.

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TOSCA is supposed to protect us all from future Love Canals. But something unexpected happened between the law's passage and its implementation, between the press release and the reality. TOSCA, just born, already seems to be dying; its story is one of those regulatory tales being told with increasing frequency in Washington these days. Caught between the conflicting demands of the chemical industry and environmentalists, EPA has spent most of its time trying to devise regulations for TOSCA that will keep both sides happy—and that will stand up in court. It is not an easy task. And partly as a result, two years after its passage, TOSCA has not made us much safer from the dangers of chemicals than we were before.

An obscure group mandated by TOSCA called the Interagency Testing Committee provides as good an example as any. Under the law, the committee has what should be an important task: compiling every six months the equivalent of the Ten Most Wanted List of chemicals, a list of the potentially poisonous compounds it thinks most warrant special attention. The EPA is required to test and evaluate the potential dangers of these suspects within a year and, when tests indicate danger, initiate "rulemaking," the administrative procedure by which a potentially hazardous substance is banned outright or restricted in use or sale.

The law required the committee to submit its first list of culprits within nine months—by September 30, 1977. And by the summer of 1977 EPA had formed a committee of people from the eight federal agencies most involved in the fields of health and chemicals. The group hired a private consultant and, with his help, devised a detailed screening procedure to target among some 70,000 contestants (EPA's rough estimate of the number of existing commercial chemicals) the ones most deserving of immediate attention. By July it had settled on 330, published a preliminary list, elicited public comment, and narrowed the field to 80 finalists. Each was then rated, based on the substance's potential for adverse health effects, amount of public exposure, and amount of previous testing. On October 12 the ten winners were announced in the *Federal Register*. So far, so good.

The group of suspects was impressive, containing some of the nation's most common chemicals, many of which have been in widespread use for generations despite suspicions that they may cause cancer, birth defects or nerve damage. The committee estimated that of one, the solvent toluene, more than five billion pounds are produced annually. Among the others are alkyl epoxides (more than four billion pounds are used yearly), nitrobenzene, a solvent (400 million pounds), and chlorinated paraffin (80 million pounds, used as common house wax).

When the list was announced, the chemical industry was up in arms, shocked to find questions being raised about familiar chemicals they had been producing for years. The Manufacturing Chemists Association, the industry's lobbying arm, went on the offensive last summer before a Senate subcommittee. The list contained too many broad categories of chemicals, MCA warned, and would strain the limited testing capacity of EPA to the breaking point.

As it has turned out, no one yet knows whether EPA has the capacity to test the chemicals. By law, the agency should have started testing each of the ten chemicals within a year, or published an explanation of why it hadn't done so.

But, it has done neither. Two years after the list was compiled, in fact, not one of the original Ten Most Wanted have been tested by EPA, let alone restricted or outlawed. What happened was that the agency, the industry, and the environmental groups got bogged down in a protracted haggle over testing standards. Such standards are crucial, because they can mean the difference between whether a product

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is banned or remains on the market. Environmentalists, naturally, want the toughest standards possible, while the industry wants standards that have considerable leeway. As a result, testing standards for the ten—and for 30 others the committee has since designated—have yet to be formulated. They may be ready by the end of the year, but EPA officials concede that even then it will take at least another year before all ten emerge from the laboratory—and that by then the committee may be pushed by industry to revise the list.

Industry's Turn to Scream

The EPA hasn't moved much faster to perform its other TOSCA tasks. Consider the inventory of existing chemicals. It's a crucial part of the law because most of the chemicals on it won't get the same close scrutiny that new ones will. But more than a year after the November 15, 1977 deadline imposed by Congress, the inventory isn't ready.

This time the delay is, in part, due to a change of heart at EPA, which at first decided only to compile a simple list of the names of the chemicals. Environmentalists complained in frequent meetings with EPA officials that the list would be useless without data on where and how much of each chemical was being produced and what it was being used for. When Douglas Costle became EPA administrator in 1977, he agreed, and the proposed regulations were scrapped and new ones issued.

But then it was the industry's turn to scream, and the long process of negotiation started. A detailed inventory would be too costly to compile, they said, and production figures were "trade secrets" they didn't want entrusted to the EPA. Meetings were held, proposals swapped, and eventually a compromise that satisfied no one was hammered out. It requires companies to provide rounded-off production figures, but not information as to what the chemicals are being used for, and it pledges that the agency will keep the information confidential when companies request it.

While the bureaucrats were pondering compromises, industry took advantage of the delay to rush some new chemicals into production. EPA claims to have no statistics, but industry officials concede that step-ups have occurred, though they deny that there is anything wrong in that. "The companies are going ahead in good conscience," says George Ingle of MCA. "Their attitude is that if EPA is going to keep delaying this thing, we're going to get our products out rather than sit and wait."

Once the inventory has been published—and it's now due sometime this year—companies must notify EPA before marketing new chemicals. In addition, under section 8(e) of the act, they are required to tell EPA about any "substantial risks to public health" posed by their products or production methods. There has been almost

Analyzing Presidents:

From Passive-Positive Taft to Active-Positive Carter

by
JAMES DAVID BARBER

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nothing of the kind reported, although EPA has been flooded with useless filings from some small companies. As of last January, about 150 reports—more than half of EPA's entire file—had come from Velsicol Chemical Corp., a Chicago-based company that in recent years has produced a number of ecological disasters, including the contamination of thousands of pounds of cattle feed with toxic PCBs in Michigan. Velsicol has been slapped with six indictments, over 100 lawsuits, and is now playing it safe. "If there was any question in our minds," said the company's PR man, "we sent it in." The industry giants, meanwhile, have reported little or nothing.

But it is not just in the matter of lists and tests that EPA has been deficient. Even in the case of PCBs, whose hazardous nature is beyond question and which Congress had flatly ordered the agency to ban, EPA has not been fully up to the task. Congress had called for the ban to be in force by July 1977, but the EPA rule wasn't published until last January—18 months late. And the rule EPA proposed would permit continued use of nearly all of the estimated 758 million pounds of PCBs currently on the market for up to five years. EPA says the exemptions are necessary to prevent economic disaster to industries currently using the colorless viscous fluids, which are extraordinarily resistant to heat and have been used for years in transformers, motors, and other electrical equipment. Most likely, the exemptions were also necessary to prevent lawsuits that might have had the effect of keeping the product on the market considerably longer than the five years EPA is allowing.

The American Way

EPA attributes its difficulties to problems that it says are beyond its control. The first is manpower. The new Office of Toxic Substances is supposed to have about 500 workers, but a Carter-imposed hiring freeze has kept the staff at less than half that number. But even before the freeze, EPA was slow to fill important slots. Steven Jellinek, who directs the office, wasn't hired until late 1977, nearly a year after the law took effect. Jean Pulliam, project manager for the inventory, came on board in March, 1978, four months after the inventory was supposed to be completed.

Ironically, the industry's own push to improve its research—a push inspired in large part by fear of TOSCA—is preventing the agency from recruiting the skilled workers it needs. There are no more than 2,000 trained toxicologists in the United States, and most seem attracted to high-paying private jobs. DuPont has tripled its toxicology budget over the last five years, and other industry giants are following suit. Monsanto is building a toxicology lab in St. Louis, while Dow has enlarged its Michigan lab by 50 per cent.

A more important problem seems to lie at the heart of the style of regulation Congress has chosen for TOSCA. EPA officials know they have to build a framework of rules and standards that not only mediates the contending interests of the industry and the environmentalists, but can survive the lawsuits that inevitably follow any new regulation. One false procedural step and the agency might find itself sent back to the drawing board by a judge. This is the American Way of regulation (see Robert M. Kaus' article, page 34), and it is a cumbersome process, a system permeated by adversary contention, foot-dragging, and evasion. The industry has no incentive to cooperate with its new regulators, and the environmentalists don't want to give up any of the legal weapons the system affords them. As a result, an agency like EPA moves ever so tentatively, getting little or nothing done for years at a stretch. What the TOSCA experience suggests is that these time-honored methods simply don't work when it comes to something as important as keeping one of our largest industries from poisoning us. ■

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Who's Who in the Administration

Pat Caddell may be guilty of using his White House connections to advance his private polling business, but he's also giving Jimmy Carter some of the wisest advice the President is getting these days. Caddell is trying to persuade Carter that the nation needs much more basic leadership than the package of incremental reforms the adminstration is offering. Unfortunately, he's not completely trusted by the White House inner circle, and the reaction of the President, Mrs. Carter, and Jody Powell to his advice is said to be largely defensive.

In

WHITE HOUSE

Deputy Press Secretary—**Patricia Bario** succeeds Walter Wurfel. She had been his assistant.

Assistant Press Secretary—**Jim Perks** was special assistant in the Office of Media Liaison.

Staff Member, National Security Council—**Marshall Brement,** a foreign service officer with experience in Soviet affairs, is replacing Reginald Bartholomew, who is moving to the State Department.

AGRICULTURE

Deputy Director for Intergovernmental Affairs—**Roger Sandman** was the director of the Nebraska Agriculture Department.

Assistant to the Administrator of the Farmer's Home Administration for Congressional Liaison—**Elliot Alman** was legislative representative for the National Association of Counties.

JUSTICE

Counsel for Intelligence Policy—**Kenneth Bass III,** a senior advisor-attorney in the department's Office of Legal Counsel, will assume the newly created post to coordinate Justice's handling of surveillance and intelligence matters.

LABOR

Assistant Secretary for Employment and Training—**Charles Knapp** has been a special assistant to Labor Secretary Ray Marshall. Knapp will supervise the CETA program.

STATE

Special Assistant to the Secretary of State—**Phillip Habib** will return to this post after resigning in early 1978 because of a heart attack.

Ambassador to Guatemala—**Frank Ortiz** has been ambassador to Barbados.

TREASURY

Deputy Commissioner of the Customs Service—**William Archey** was director of policy analysis for the Law Enforcement Assistance Administration.

AGENCIES AND COMMISSIONS

Agency for International Development
Director—**Douglas J. Bennet,** assistant secretary of state for congressional relations, has been nominated by Carter. He succeeds former Ohio governor John J. Gilligan, who was pressured into resigning earlier this year.

Civil Aeronautics Board
General Director of International and Domestic Aviation—**Michael Levine** has been director of the Bureau of Pricing and Domestic Aviation.

Federal Election Commission
Commissioner—**Frank Reiche,** chairman of the New Jersey Election Commission and a Republican county committeeman, was nominated by Carter.

Federal Labor Relations Authority
Member—**Leon Applewhaite** was an assistant professor of business at the State University of New York.

Federal Trade Commission
Commissioner—**Pat Bailey,** an Arkansas

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Republican, has been a member of the Merit System Protection Board.

Postal Rate Commission
Member—**A. Lee Fritschler** is acting dean of the College of Public Affairs at American University.

Postal Service
Assistant Postmaster General for Employee Relations—**Nancy George** had been assistant chief postal inspector for administration. Her new post is the highest position ever held by a woman in the Postal Service.

Securities and Exchange Commission
Commissioners—**John Evans and Phillip Loomis Jr.,** both Republicans, have been reappointed by President Carter.

President's Advisory Committee on Women
Chairwoman—**Lynda Johnson Robb** succeeds Bella Abzug.

Member—**Linda Lee** has been president of the Council of Asian-American Women.

Member—**Alice McDonald** has been executive assistant to the mayor of Louisville, Kentucky.

Member—**Ann Ramsey** was director of the Budget Office at Harvard University.

Member—**Jill Schropp** is a Seattle realtor and journalist.

President's Commission on the Accident at Three Mile Island
Member—**Carolyn Lewis** is an associate professor at the Columbia University School of Journalism.

Tennessee Valley Authority
Member—**Bob Clement** of the Tennessee Public Power Commission has been nominated to fill the third seat on the authority. If he is approved, the entire TVA board will consist of people Carter has appointed.

Out

White House
Associate Director of the Presidential Personnel Office—**Diana Rock** will join the Carter-Mondale Presidential Committee.

Staff Member, National Security Council—**William Quandt,** the NSC's top expert on the Middle East, is leaving to join the Brookings Institution. He will be replaced by Robert Hunter, who has been handling Western European political affairs for the council staff.

Defense
Secretary of the Air Force—**John Stetson** resigned May 18, citing frustration over the weakened powers of his office.

Energy
Deputy Administrator of the Economic Regulatory Administration—**Hazel Rollins** will join the Washington law firm of Coopers & Lybrand.

HEW
Undersecretary—**Hale Champion** resigns effective June 30 to return to Harvard University.

General Counsel—**F. Peter Libassi** will enter private law practice.

Director of the National Institute of Education—**Patricia Graham** will assume a chair at the Harvard University School of Education.

Associate Director of the National Institute of Mental Health—**Frank Ochberg** was named director of mental health for the state of Michigan.

State
Ambassador to Switzerland—**Marvin Warner** resigned for personal reasons.

Deputy U.S. Representative to the United Nations—**James Leonard** will become deputy Mideast Negotiator under Robert Strauss.

Treasury
Executive assistant to Treasury Secretary W. Michael Blumenthal—**Richard W. Fisher** will leave in the fall to return to investment banking.

Agencies and Commissions

Federal Communications Commission
Chief, Common Carrier division—**Larry F. Darby** has resigned. Although Darby cited personal reasons for his departure, officials within the commission report that Darby was frustrated with his lack of control over his department.

IRS
Chief Counsel—**Stuart Seigel** is joining the Washington law firm of Williams & Connolly.

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Our Well-Oiled Military Machine

'Hello Central, Get Me NATO': The Computer That Can't

by James North

Suppose the Russians decided to help solve their energy problems by invading Iran. You are the president, and you must decide what steps to take. It would be important, in those critical moments, to have accurate information. You would want to know, for example, how many Russian tanks were invading, and where the ones that weren't were. What forces did you have at your disposal, where, and at what state of readiness? And the bigger questions, the Armageddon questions: Were any nuclear weapons involved? What did the satellites say about the position of the Russian submarine fleet? Were they mobilizing on any other fronts? In fact, you would need to take in an incredible amount of data, and you would need to issue a series of complex commands. Most important, you would want to do all this instantly.

That is why our military depends on computers. The need for instantaneous communication has outstripped the capacities of the human brain. Computers can store the information and make it available to the humans who make the decisions. Indeed, computers are an example of the type of military hardware that neither hawks nor doves seriously argue we can do without. We need the machines to help prevent the accidental triggering of a war, and we need them to fight a war if it ever comes to that.

Unlike missiles or airplanes, however, computers don't attract many headlines. The debate over the MX missile will likely destroy several forests before it is over. And if a major weapon costing $10 billion was publicly exposed as a failure, if the missile keeled over and crashed on the launching pad seven times out of ten, the pictures would be in every paper.

But what if the Pentagon spent $10 billion on the computer that is the nerve center of the entire U.S. military apparatus, and then botched up the job so completely that the system didn't work at all almost 70 per cent of the time, and was pitifully inadequate the other 30 per cent? Would you hear about it?

Well, it's happened.

In the spring of 1977 the Pentagon conducted its most recent test of the

James North is a pseudonym for a Washington reporter.

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World Wide Military Command and Control System (the acronym WWMCCS is pronounced "Wimex"), the computer system on which it plans to rely to get the American military through the eighties. The purpose of the test was to see how well the system held up under simulated emergency conditions, when our military leaders demanded quick answers to complicated problems. The exercise, labeled PRIME TARGET, linked up computers in the U.S. Atlantic Command (LANTCOM), European Command (EUCOM), Readiness Command (REDCOM), Tactical Air Command (TAC), and National Military Command Center.

During the test, EUCOM attempted to obtain or send information through the computer network 124 times. It failed 54 times as the result of "abnormal" shutdowns of the computer.

LANTCOM tried 295 times and failed 132 times.

TAC went 19 for 63, a failure rate of 70 per cent.

And the so-called Readiness Command, the unit whose men comprise America's first line of defense in the event of any military emergency anywhere in the world, found itself able to receive and send instructions in only 43 of 290 attempts, a success rate of 15 per cent. Overall, the computers tested worked only 38 per cent of the time.

It wasn't the first occasion on which Wimex had shown itself spectacularly incapable of doing its job. Since 1966 the Pentagon's multi-billion dollar computer program has been a continuing horror story. Despite a decade of expense, the machines are still so unreliable and incompetent that military personnel are forced to "work around" them by using telephones and other old-fashioned forms of communication—not only in times of crisis, but in the everyday conduct of their jobs. It's as if the World War II Pentagon had outfitted our army with radios and telegraphs that were so defective that the soldiers had to make do with messengers and semaphores.

'Batches' and 'Crashes'

The Wimex fiasco began in the late 1960s. At the time, the Army operated a loosely knit federation of 158 different computer systems at 81 different sites around the globe. These networks had been individually installed to meet the specific needs of different branches of the armed services and employed widely divergent types of computer equipment. Under this patchwork system, it was costly and difficult to exploit the computers' potential to gather up intelligence from diverse sources, talk to each other, funnel the information to where the decisions would be made, and transmit the orders back. Since the military was growing increasingly reliant on computers to do these things, the Pentagon in 1966 decided to develop a standardized system that could be used by all commands. The alternative to a reliable computer network might be disaster.

Indeed, it was a series of disastrous communications failures in the late 1960s that led the military planners to think again about the adequacy of our computer system. First, during the six-day Arab-Israeli War, the *U.S.S. Liberty,* cruising off the Sinai peninsula, was fired on by Israeli gunboats after the ship had failed to receive information that would have warned it away in time. Another communications snafu led to the shooting down of a U.S. spy plane off the coast of North Korea. Then came the seizure of the *U.S.S. Pueblo* by the Koreans, a crisis that could have been avoided if the message sent by computer warning the *Pueblo* of potential trouble hadn't been misrouted. In hundreds of smaller, unpublicized incidents, the military found itself plagued by delay or mixups of messages.

As a result, in December of 1971 Deputy Secretary of Defense David Packard issued DOD Directive 5100-30, aimed at reorganizing the Wimex system "to provide the means by which the President and the Secretary

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of Defense can: receive warning and intelligence upon which accurate and timely decisions can be made [and] assign military missions and provide direction" to the commanders in the field. To accomplish Packard's goal, which clearly seemed to be in the interest of U.S. survival, Congress authorized the Pentagon to spend massive amounts of money. Since 1966 our military has paid out between $10 and $15 billion developing its centralized computer network. The bulk of that has been spent since Packard's directive on the creation of a new Wimex consisting of 35 computers at 26 command posts around the world. The U.S., the Congress was told, would have the finest computer support system in the world. What it got was a system that was obsolete from its inception.

The problems started with the decision, in 1972, to use Honeywell 6000 computers as the basic "hardware" for Wimex. The Pentagon's rationale for the Honeywell purchase is still a mystery—the military has repeatedly denied investigators from Congress' General Accounting Office access to the documents that might explain the decision. But several things are clear. First, the Honeywell machines are designed to receive or communicate data in so-called sequence processing, or "batches." The "batch" system, according to a GAO report issued last April, is "extremely inefficient" even for military needs in time of peace. Col. Perry Nunn, the Pentagon's acting director for "information systems" and "communications command and control," described the problem: "Suppose the P.L.O. hijacks a plane and lands it somewhere in the desert. If I've got to provide help, I need to know where the nearest airfields are, how much fuel they have on hand, how long their runways are, and dozens of other support questions. The computer can't answer, and may have to dump [give a batch printout] a whole set of nearby countries and all their airfields. And you have to go through these doggoned things by hand."

What the military needs—and could have bought—is a computer that can do what is called "real time" data processing. "Real time" capability means that the computer, even while it is being questioned, can incorporate other data it is receiving from satellites and other sources into its response, so the commanders get the most current information before making their decision. According to GAO, "the need for real time processing. . . was known to DOD before the Honeywell computers were purchased, and other computers, available at that time, could have provided that capability." Instead we have a Wimex network that even Pentagon officials concede is ten years behind current technology. Some military commands, like the Strategic Air Command, have gone to extra expense to install real time computers in their efforts to "work around" the deficiencies in the basic Wimex system.

As the shortcomings of the Honeywell computers became evident, the military attempted to compensate by spending $1 billion dollars on "software" to beef up Wimex's capabilities. The hope was that if the software (which is simply the programs that tell a computer what to do) was fancy enough, it could make up for deficiencies inherent in the machines themselves. But it hasn't worked out that way. In fact, the very complexity of the software has a lot to do with the Wimex system's abysmal 38 per cent reliability. In operation PRIME TARGET, for example, the machines simply couldn't handle the programs, and as a result the computers shut down frequently. Other times, messages were misrouted for the same reason. A Pentagon report dated March 29, 1976, succinctly summarizes the support the president can expect from Wimex in time of crisis: "The network crashes [shuts down completely] approximately every 35 minutes, while the longest time without a crash was approximately one hour."

The Defense Department's computer experts are asking Congress this year to spend another $140 million for

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Wimex software. GAO opposes the request, arguing that Congress should consider "stopping or curtailing" the program. As one congressional staff member familiar with the controversy put it, "What they are trying to do is take a Volkswagen chassis and make it into a Cadillac, and that's just not possible. Their decision to buy those Honeywell computers was a bad decision, and this looks like the sort of problem where it's going to cost a lot of money to bail the Pentagon out. It's not just a bug in the system, you know, it's a damned disease."

Built-In Blinders

The specific reasons for the Defense Department's computer blunders are still a national security secret, one we shouldn't expect DOD to accidentally declassify in the near future. But a few of the sordid details of the software program have come to light. For followers of our military bureaucracy, the plot is a familiar one. All the classic elements are here.

First, there are the built-in blinders. When it came time to administer the software program, the Pentagon needed someone familiar with the details of the system, especially with the work being done by Computer Sciences Corporation, the major contractor and supplier of software for Wimex. Computer Sciences had come under criticism for its performance under the contracts, particularly from a senior electrical engineer on the project named John Bradley. But the need for familiarity overcame the need for objectivity, and the Pentagon installed as chief of the Defense Communication Agency's "network" branch a man named Irving Bialick. Bialick was familiar with the system, all right, since before coming to the Pentagon in 1974 he had worked for Computer Sciences designing it. He was also the owner of 1,700 shares of Computer Sciences stock, which he finally sold in 1977 for $15,000.

Then there was the unwillingness to admit a mistake. As early as 1973 Bradley had spotted reliability problems in Wimex. That year, before a test of the system, Bradley repeatedly urged, among other things, that the computer contractor should station an expert at each computer used in the test to quickly determine the cause of any failures. "It's a hell of a lot easier and less expensive to fix a problem when you find it in the early stages than it is after you adapt it to the whole computer network," Bradley recalls. Nevertheless, Bradley, whose job as "reliability engineer" seemed to justify concern over such problems, was instructed by his superior, Marsden Champaign, to worry about other things.

The usual steps were taken, of course, so that the bad news didn't reach the top. When Bradley violated this unwritten rule and stressed the need for reliability and on-site inspection in a manner that might reach the Joint Chiefs, Champaign decided Bradley had to go. After two critical letters from Champaign, Bradley was transferred to a clerical job.

Finally, Bradley became a whistleblower. As he saw test after test, and failure after failure, prove him right, he began to get angry. Part of it was personal. Bradley had filed a grievance to get an engineering job back, asking to be placed in a position where he could "make a contribution." Part of it was ideological. Bradley is what most people would call a "hawk." He worries about national defense—and the defects in Wimex, he said, were "enough to keep you awake at night."

In April of 1973, Bradley went to the White House for a meeting with General Robert A. Rosenberg, an official of the National Security Council. Bradley told Rosenberg of the flaws in Wimex. Rosenberg asked him to put it in writing. Bradley did so, in a two-page letter dated April 29, 1977.

Two months later, Bradley was fired. He was charged, among other things, with making false and misleading statements about the reliability of the computer system. Freed from the need to go through channels, Bradley willingly talked to a reporter "on the

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record" about the problems Wimex was having. After he did, the GAO conducted an investigation of the Wimex project that substantially confirmed his charges.

Today Bradley is unemployed, living on his wife's salary and a $1,000 a month pension. He has amassed $50,000 in legal bills in his battle to regain his job. He is not likely to succeed. Both Bialick and Champaign testified against him at his civil service hearing.

So the men who made the mistakes are still in charge, and the one who didn't is out in the cold. The Wimex story could be a rerun of hundreds of Pentagon scandals that have sapped our defense and helped bankrupt our Treasury over the years, from the P-40 of World War II to the C-5A and the F-14. In each case, the Pentagon has entrusted our safety to the men who have the least incentive to tell us when something is going wrong. So we end up with guns that jam, missiles that miss, computers that "crash." To prevent this sort of disaster, we have for years needed people with access to the facts who are able, before it is too late, to ask the questions that men like John Bradley can only ask at the risk of their jobs. When Harold Brown became Defense Secretary, he seemed to be taking an important step in that direction. In the accompanying article, Eric Schnurer describes how the idea went over with the Pentagon bureaucracy, and what happened. Suffice it to say, the defense industry will sleep a little easier, but the rest of us shouldn't. ■

Death of the Devil's Advocate

by Eric Schnurer

Some people think Phil Donahue invented the idea of playing "devil's advocate" as a cute way to keep housewives amused between the time the early-morning "I Love Lucy" reruns end and the early-afternoon episode of "All My Children" flashes across the tube.

This is not correct.

The origins of the devil's advocate actually lie in the rituals of canonization. When someone was up for sainthood, one of the final steps was the appointment of a "special prosecutor" charged with researching the candidate and mounting a case for why sainthood should be denied. Supporters of those the "prosecutor" was arguing against saw him as presenting the devil's brief. Hence, "Devil's Advocate."

It appears that the Pentagon still views the technique as demonic. Thus it was that Secretary of Defense Harold Brown last October gave in to the pressure and quietly exorcised from his Office of the Secretary an independent office designed to ensure that all new weapons are honestly tested and evaluated before millions are spent on their purchase. Its sin was that it did its job too well.

The institution of a separate and independent check on weapons procurement was a major reform advo-

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cated for years in the reports of two major presidential commissions and the Carter administration's transition team. Brown, who came to his job with a reputation as one of those "tough-minded" men who could stand up to the internecine Pentagon pressure, also noted, in his most recent annual "posture" statement, that the Defense Department "needed a more independent evaluation of operational test results of new weapon systems prior to major production and acquisition decisions."

The importance of such independent evaluation is enormous. As the General Accounting Office has noted: "The armed services sometimes even resort to lying to Congress about their weapons test results." One GAO study found "omissions of poor test results, distortion of findings, misleading statements and other discrepancies" in *every case reviewed.* Probably the most renowned example is the $20-million F-14 jet, which was hurried into production before it was adequately tested. The result is that its engine has been known to blow up.

Another example was the Sparrow 7-F air-to-air missile, a weapon into which the Pentagon has poured hundreds of millions of dollars since 1948. The Sparrow underwent tests by the Army and Air Force and failed miserably. Nevertheless, it subsequently went into mass production.

The reason for such continued waste in weapon systems, one official observed, is that "by the time you get to doing operational testing, the thing has a life of its own." As another government defense expert noted, the official directing the development of a new weapon system is charged specifically with bringing the weapon to fruition; thus, at the testing stage, "his job is not to raise problems and make waves."

Under the current system, the program manager supervising development of a weapon must pay for testing from the program's own budget. Testing is an extremely expensive business, so most tests are conducted at facilities provided by whatever branch of the service is building the weapon. This renders the weapon's testers "quite responsive to the service's wishes."

For these reasons, a "blue ribbon" defense panel recommended in 1970 that an independent office to review and evaluate weapons tests be established. Stirred by this recommendation, Congress authorized a President's Procurement Commission, which reached a similar conclusion a few years later, as did Carter aides drafting a Defense reorganization plan in early 1977.

Upon taking office, Secretary Brown finally acted on these suggestions, creating an Office of Testing and Evaluation (OTE), within the Office of the Secretary, to separate the "analysis of operational test results from the personnel responsible for research and engineering, thereby providing me with completely independent evaluation."

The OTE group was placed in a division of the Secretary's office called Program Analysis and Evaluation, headed by Assistant Secretary Russell Murray. PA&E was the "systems analysis" division already performing some watch-dog functions for the Secretary. Observed one former member of OTE, placing that unit within PA&E was "probably a mistake, since a lot of people were already pretty resentful of Program Analysis."

It wasn't too long, however, before OTE stirred some resentment on its own. DOD's Defense Research and Engineering office, which conducts weapons tests and development, chafed at the prospect of a new check, and convinced Brown to take the matter to the Defense Science Board. The board, comprised largely of Defense Research and Engineering veterans and their backers, naturally concluded that the OTE was a bad idea. But if it had to be, it should be allotted 22 staff testers. Nevertheless, when OTE finally opened its doors at the end of 1977, it had a staff of only eight. Brown promised that more appointments were on the way. At this time, however, the Secretary was delegating authority for all administra-

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tive tasks to Assistant Secretary Charles Duncan, so that he could devote more time to SALT.

The Tanks You Get

The Testing and Evaluation office, even with its reduced staff, was soon hard at work doing what it was supposed to. For this, it was earning many enemies, fast. OTE reported that the Pentagon was proceeding with procurement of weapon systems that had either failed operations testing or hadn't even had tests, and it tried to halt these purchases. One such project was the XM-1 tank, on which the House Armed Services Committee recently voted to spend over a half-billion dollars, even though the engines and turrets—among other things—didn't work right.

No one, it seems, likes a tattletale, especially the weapons developers in the Pentagon who watched their pet projects being hamstrung by the efforts of the OTE. With so many major projects coming down the pike this year, such as the XM-1, weapons developers and testers panicked that if OTE was being so scrupulous about comparatively minor projects, Lord only knew what they would do with major programs. It wasn't only the Pentagon weapons developers who were worrying. Officials in the defense industry were becoming increasingly annoyed with the delays necessitated by OTE scrutiny.

Undersecretary William Perry, the man in charge of Research and Engineering, soon convinced Assistant Secretary Duncan to limit the role of OTE to a point where it would be nothing more than a clearinghouse for test reports by the individual services. With its role narrowed, Duncan decided OTE didn't need any more people after all.

Program Analysis chief Murray rose to defend the independent Testing and Evaluation office. He wrote to Secretary Brown that the office, in order to be an effective check on dishonest tests and malfunctioning weapons, needed more people. If it didn't get at least a dozen more, Murray said, it might as well be eliminated.

It *was* eliminated. Perry—generally regarded as the Pentagon's second most powerful man—teamed up with the weapons developers in Research and Engineering, and the defense industry, to bring pressure on Duncan and Brown. In October, Duncan ordered all test review and evaluation functions removed from OTE and transferred back to Research and Engineering, where tattletales are unlikely to flourish.

Secretary Brown did nothing to reverse Duncan's order, thus dismantling an office that to a substantial degree would have freed the Secretary from depending on the services and the defense bureaucracy for information and evaluation—an office that had the potential for strengthening our defense and saving hundreds of millions of dollars.

The weakened Program Analysis and Evaluation office, under Murray, is still limping along, trying to do its job by finding captains or majors who know about deceptions in test results or weapons flaws and are willing to talk. Usually, meetings between a PA&E staffer and these low-ranking officers are conducted at a street-corner bar somewhere. The Program Analysis people then must attempt to obtain independent documentation in order to protect the source of their information. Otherwise, shoddy testing and evaluation continues unhindered. "It's worse now than I've ever seen it," one Pentagon official commented.

These developments were not, of course, something the Pentagon publicized. The discovery was left to accident and Rep. Les Aspin. Seeking information on the XM-1, he decided to call up the Pentagon's "devil's advocate." Pulling out his Defense Department directory, Aspin turned to the appropriate page for the Office of Testing and Evaluation.

It wasn't listed any more. ■

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The State as Bookie

by Seth Kupferberg

Resorts International, owner of the first legal American casino outside Nevada, celebrated the casino's first birthday the last week in May. While the New Jersey hotel handed out straw hats and "Happy Birthday" banners, *The New York Times* sent a reporter to gather assessments of the effects of the first year of legal gambling on the first Eastern town to try it out, chronically depressed Atlantic City.

The reporter brought back mixed assessments. He found business leaders unequivocally enthusiastic. A Chamber of Commerce spokesman called legalized casinos "America's first success story in 50 years in rebuilding a city without federal aid."

On the other hand, unemployment, supposedly a target of the drive for legalization, was actually up slightly for the year. Crime was up substantially, especially muggings and prostitution. People who had bought homes 30 years ago were moving out, disgusted by soaring noise levels and property assessments. Legal casinos had turned out to be "a nightmare," said a spokesman for Cape-Atlantic Legal Services. "Almost every day I see another house vacated," the deputy director of Atlantic Human Resources told the *Times*.

Since New Hampshire established the first modern state-run lottery in 1963, legal gambling in more and more forms has spread to more and more areas. There are now government-run lotteries in 15 states, not to mention official off-track betting. State and local governments in 1977 took in $1.6 billion in taxes on gambling operations of some sort. Atlantic City has joined Nevada cities in permitting legal casinos. And there are proposals, likely to pass in some form, to match Atlantic City by licensing casinos in other states, especially New York. New York police, says the *Times*, have already stopped enforcing anti-gambling laws in anticipation of their abrogation.

As the *Times* story on Atlantic City shows, burgeoning legal gambling hasn't entirely choked debate over its

Seth Kupferberg lives in New York City.

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social usefulness and the problems it can cause. But hardly anyone still seems to mention what once seemed of primary importance—that as a basis for economic development, gambling traditionally has been looked on with disdain, as a hollow parody of productive capitalism in which nothing is created and no lasting useful service is performed. Adam Smith in *The Wealth of Nations,* for example, saw lotteries as the main example of mankind's universal irrationality and "absurd presumption." Americans used to think gambling was suspect for ethical reasons, too—all right for clever hucksters, maybe, but inappropriate for governments that shouldn't be fleecing the gullible or needy.

Real prosperity, it was traditionally thought, depended on solid enterprise, not luck that couldn't possibly help more than just a favored few. But in recent months, as discussion of legal casinos has continued and grown more heated, even opponents of legal gambling have rarely asked if it's indeed the only enterprise still capable of sustaining economic growth—or, if this is true, what that says about America's economy. Instead of raising such questions, important in themselves and also suggestive for debates on larger questions of what America's economy should look like, most critics of expanded legal gambling have been angling for a larger portion of the take.

'A Piece of the Pie'

Consider the president of the Atlantic County National Association for the Advancement of Colored People, among the most vociferous critics of gambling contacted by the *Times* for its story on Resorts International's first year. "We were told when we voted for casino gambling that we'd get a piece of the pie," he groused, complaining that the casino hasn't hired as many blacks in top positions as the NAACP had hoped.

Or take New York City's District Council 37 of the State, County and Municipal Employees union, among the critics of a state panel's report on how best to bring legal casino gambling to New York. Executive director Victor Gotbaum is a leader with strong views on many social issues, but his objection wasn't to the idea of legal casinos, only to the idea that licensed private casinos would be more efficient and easier to police than state-operated ones. Gotbaum said private operation of casinos would invite infiltration by organized crime. This may well be true. But it seems likely he was also motivated by the prospect that his union would get the jobs in a state-run enterprise while it might be shut out of any private ones.

Or think of another leading opponent of the New York casino gambling plan—Bernard Rome, former chairman of New York City's Off-Track Betting Corporation. In April Rome founded a committee called the People's Campaign Against Casinos to fight legalization in the state legislature and, if necessary, in a public referendum in November. The treasurer of Edward Koch's successful New York mayoral campaign, Rome took over OTB last year with ambitious plans to increase its disappointingly small contribution—$76 million last year—to the city's strapped budget. He hoped to cut overhead, including patronage jobs and a $2-million television advertising campaign Rome said had not produced results, and to bring in new business by eliminating a surtax on winnings and by brightening up the betting parlors with live broadcasts from the racetracks and even with restaurants.

When Koch announced support for legalized casinos, though, Rome suddenly developed moral scruples. Casinos "have music, noise, free liquor, chips to help you pretend you're not losing your money," he complained, without explaining what made broadcast races, noise, and liquor that you paid for in a betting-parlor restaurant less objectionable. "They're the most dangerous form of gambling."

Koch fired Rome for openly oppos-

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ing casino gambling, and the new OTB head, John F. Keenan, said he had "no philosophical objection" to the practice. Perhaps more to the point, Keenan disputed Rome's contention that casinos would cut into off-track betting revenue. "Business thrives on competition," Keenan told reporters optimistically. "When night baseball came, they didn't stop sex."

False Libertarianism

Until quite recently, though, the whole idea of revitalizing a decaying metropolis by enticing suckers into dropping money at roulette tables—even with a spillover for local businesses, related construction, and taxes—would have struck a lot of people as downright immoral. After all, the argument might run, gambling is like smoking and drinking—an activity that may be fine in small amounts, but that can become a dangerous addiction, something the government should hardly be encouraging. It's wrong for anyone, and certainly for the government, to stay in funds by getting people to spend their energies and money on the numbers, or by helping someone wager his last welfare check. The welfare check is more than just hyperbole—government revenues from gambling almost always work like a regressive tax, since poor people spend a higher percentage of their incomes on gambling than the rich. This is not necessarily because the poor spend more time gambling; it's simply that when a rich and poor person buy the same lottery ticket the burden falls more heavily on the poor person's pocketbook.

In addition to the certainty that it will take the remnants of some unfortunate's unemployment check, widespread large-scale gambling may have a corrupting effect on a society in relatively subtle and indirect ways. There isn't any reason that casino gambling *has* to lead to unrelated crime or a general atmosphere of unhealthy greed, but when that seemed to happen in Atlantic City, no one was especially surprised. *Business Week,* which last year ran a special report, "Gambling: The Newest Growth Industry," quoted the economist Alfred Marshall on some of that growth's possible effects: "The pleasures of gambling are likely to engender a restless, feverish character, unsuited for steady work as well as for the higher and more solid pleasures of life."

Of course, the analogy with smoking and drinking can be made to work both ways. In its anti-regulation form, it's a staple of the argument for letting gamblers lose their shirts. You can't legislate morality, proponents of legal gambling claim. Prohibition of alcohol didn't work. If people want to kill themselves by smoking, government has no right to stop them. Gambling has gone on since the world began, whatever laws were passed against it. In fact, "scores" of illegal casinos continue operating in New York City now, according to the *Times*. As Chief John Guido of the New York police department's anti-corruption drive put it, "If it was legal, at least the city would be getting a piece of the action."

Put as a plea that gambling shouldn't be illegal, the argument has undeniable force—but much less relation to the real drive toward large-scale legal gambling. When Frank Rosenthal of the Stardust Hotel and Casino in Las Vegas says that "gambling is part of the human being, it's in the blood," he isn't reluctantly accepting an unhappy fact of human nature. And when state lotteries' spending on television advertising went from $3 million to $7 million between 1975 and 1977, the reason wasn't libertarian principle, either.

So while permitting legal gambling is sometimes presented as a civil liberties question, all its chief proponents really have in mind is making money—and this becomes painfully obvious when states go beyond permitting gambling and run ad campaigns intended to *encourage* it. When New York started its state lottery in 1966, the early ads urged citizens to buy tickets to help provide money for education—an approach the state soon

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dropped in favor of appeals to unadulterated greed. A lottery "has to be merchandised, promoted and improved," the director of the pioneer New Hampshire lottery once said. "It's like razor blades or detergents—you always have to come up with something new." It's as if the government urged people to smoke because this was a politically unobjectionable alternative to taxes—whereas if the smoking and drinking analogy were taken seriously, TV advertising for gambling, far from being paid for by the government, would be illegal. And cities and states don't make smoking and drinking cornerstones of economic planning, even though they may make money on each sale of alcohol and tobacco.

Gambling in some form is probably here to stay—even in Mao's China you can see people playing cards at night on the streets. But recognizing this fact no more means people or their governments should rush to set up casinos than recognizing that prostitution is an old profession means it's all right to set up business as a pimp. As New York and other states consider extending legal gambling, the better to compete with Nevada for the suckers' money, they ought to think about the ethics of the boom they're helping to create—and maybe even its esthetics—and not just about how much money a casino can induce to change hands.

Equally important, skeptics about gambling ought to advance some more inspiring arguments than that they want a larger portion of the take. Otherwise they may end up with hastily developed programs like the one in Atlantic City—"good for the city" as the head of the town's Latin organization put it, "but not for the citizens." This sort of development may typify a lot of efforts at urban revitalization, but if so, that's something dissenters with political vision ought to try to change. By not even asking what is right, concentrating instead only on how fast money will come rolling in and how much they can snag, the critics can only contribute to the ills they ought to try to cure. ■

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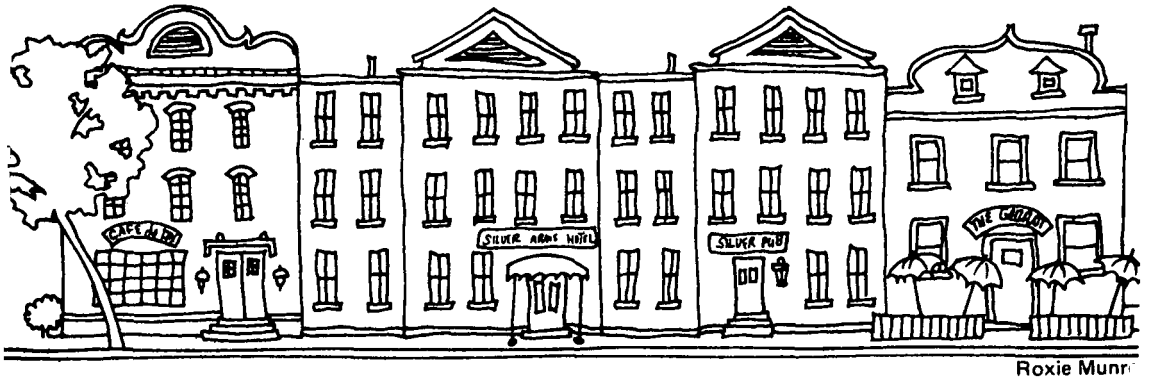

Roxie Munro

Where to Stay in Washington

Georgetown

The way to make the most of Georgetown is to get out of your hotel and enjoy the scenery—walk along the historic C&O canal, up and down the side streets past the 18th-century homes, and browse through the antique and other specialty shops that line M Street and Wisconsin Avenue. Although your choice of where to stay is limited to four hotels (a fifth, a Quality Inn, is due to open in 1981), the restaurant story is the opposite. There are over 100 restaurants in the area, with cuisines to satisfy nearly every craving—from Afghani to Vietnamese to Mexican to good old American and everything in between—and every budget—from carryout pizza to *carre d'agneau a l'ail.*

The Georgetown Dutch Inn, 1075 Thomas Jefferson St., N.W., (202) 337-0900. This is a small—47 rooms—hotel on a quiet, one-block side street, a half block from the C&O canal on one side and the M Street shopping area on the other. Because it was designed as an apartment building, all "rooms" are actually two-room suites: a bedroom and a separate living area with kitchenette equipped with dishwasher, disposal, and utensils (a good grocery is a block away). The rooms are small, the decor undistinguished Grand-Rapids colonial, but comfortable. The best buys are the eight two-story penthouse suites—two bedrooms and bath upstairs, living area, kitchenette, and powder room downstairs. On the roof is a tubbish pool and a view. There are no meeting facilities. Singles, $50-$54; doubles, $58-$62; penthouses, $100-$120. Children under 16 free; free indoor parking. The only restaurant in the Inn is Entre Nous, the first French-Vietnamese restaurant in Washington. But it's open only for lunch and dinner, so if you don't feel like cooking your own eggs

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and bacon, take advantage of the free coffee and Danish served every morning in the lobby.

The Georgetown Inn, 1310 Wisconsin Ave., N.W., (202) 333-8900. This is Georgetown Hollywood style: set-designer colonial decor, the Four Georges restaurant (straightforward American meat and fish dishes), and a location right on Wisconsin Avenue, in the center of Georgetown. With only one small function room, used mostly for receptions and dinner parties, the clientele is primarily individual businessmen, and the hotel emphasizes its aim to keep them happy—free coffee and paper at the door in the morning with wake-up calls, free overnight shoeshine. There are 85 rooms (over half have sitting areas with sofas) and ten suites (all with bidets and two TVs; some with refrigerators). Singles, $52-$60; doubles, $65-$73, suites, $102-$112. Parking is free, but children aren't—it's $10 each for all additional persons in a room.

The Holiday Inn, 2101 Wisconsin Ave., N.W., (202) 338-4600. The most Georgetown aspect of this otherwise very Holiday-Inn hotel is its location—a comfortable three-block walk down Wisconsin to the shops, restaurants, and Georgetown residential area. It's the best hotel in Georgetown for families—it has a decent-size outdoor pool and terrace, Gray Line Tours will pick you up at the hotel, and, in addition to the Cote d'Azur restaurant, there's a real coffee shop with a simpler menu and moderate prices. The meeting facilities—two small rooms and a banquet room—can accommodate up to 200. Singles, $40-$44; doubles, $48-$52; suites: one bedroom, $90; two bedrooms, $150. Children under 12 free; free parking.

The Four Seasons, 2800 Pennsylvania Ave., N.W., (202) 342-0444, (800) 828-1188. Opening August 1, this looks like a strong candidate to become *the* place to stay in Georgetown and may also be stiff competition for the other luxury hotels in Washington. The hotel is built around the courtyard of one of the new shop-and-office plazas that have sprung up in Georgetown along the C&O canal. This particular complex is next to Rock Creek Park, and the hotel has taken advantage of this by window-walling the lobby and the Au Beau Champs restaurant, and continuing the vista of greenery inside with a jungle of trees and plants in pots. Although it has more space for meetings than the other Georgetown hotels (four handsome meeting rooms and a ballroom that accommodates up to 500), and group rates are available, the Four Seasons is trying hard to avoid the convention-hotel image—no registration or cashier's desks assault you when you enter, baggage is brought in through a separate entrance. The Four Seasons emphasizes "personal service"—escort to your room by an "assistant manager," round-the-clock valet and room service (yes, broiled sirloin and fries at 4 a.m.), fresh flowers and two bath linen changes daily, complimentary breakfast for insomniacs in the lobby from 5:30 to 6:30 a.m. The 218 rooms are very attractive, with contemporary furnishings and soothing color schemes. They all have remote control TV, digital clock radios, and pre-stocked liquor cabinets. But be sure to request a room that overlooks the park and *not* the government power plant. Singles, $64-$94; doubles, $79-$109. There are 20 suites: one bedroom, $168-$219; two bedrooms, $252-$313. It's a good place to bring children, who are free under 18, but not your car—it's the only hotel in Georgetown that charges for parking.

—*Carol Trueblood*

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Richard Reeves on Political Books

"Outside a few Capitol Hill hearing rooms, little has been said about these efforts," read the second paragraph of a story on the fourth page of the third section of *The Washington Star* on May 27th, "even though they are so far-reaching that they could alter the ways Americans communicate with the world, elect their leaders, buy their goods and share their thoughts."

The *Star* was writing about attempts to rewrite the Communications Act of 1934. The law that regulates American telegraph, telephone, radio, and television communication is apparently going to be revised—about time, some would say, considering that some of the miracles it is supposed to control didn't even exist when it was written.

The rewrite—essentially the creation of Rep. Lionel Van Deerlin who would like to eliminate the Federal Communications Commission—is not the kind of story that galvanizes casual readers or politicians. You can barely understand the brushfire of statistics, data, and technical jargon that has swept through congressional hearing rooms presided over by Van Deerlin and Senator Ernest F. Hollings.

That, of course, is exactly the way the television industry wants it. The more complicated things get, the less control government, which imperfectly represents the rest of us, has over American business. Thirty-five years ago, the whole concept and technology of television was too much for politicians and bureaucrats, so they took the word of two experts—David Sarnoff and William Paley—and authorized the creation of an 11-channel American video system. Thus prospered beyond imagination RCA and CBS. The two giants who devised and sold the system easily talked the rest of us into giving them the keys to our mint, our hearts, and our minds.

What got me thinking about all that—the relationship between communications and government—was *See No Evil: The Backstage Battle Over Sex and Violence in Television* by Geoffrey Cowan. The book, published by Simon and Schuster, tells the story of the fight by writers and producers to overturn the "Family Hour," the 8 p.m. to 9 p.m. (Eastern Standard Time) purity ghetto that the networks installed in 1975 because they were momentarily afraid of the government. CBS particularly was scared that Washington might take over television because John Pastore, Hollings' predecessor as chairman of the Senate Commerce Committee's communications subcommittee, thought that a Noxzema shaving cream commercial—"Take it off, take it all off. . . ."—might turn his young grandson into a sex maniac.

So, through a series of events, memos, and meetings engagingly

Richard Reeves is the author of Convention. *His column is a regular feature of* The Washington Monthly.

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recounted by Cowan, the networks and independent stations around the country rushed into self-censorship to head off a real or imagined challenge to their independence by Pastore and FCC Chairman Richard Wiley. Then, the writers and producers—hereinafter referred to as "the creative community"—went to Federal Court and got the whole thing thrown out as a violation of the First Amendment. It's a nice yarn, explaining things like how ABC decided "crud" was too dangerous a word for Americans to hear before 9 p.m. The theory was that many kids would be turned to crime and depravity by hearing "crud" or seeing Kojak's karate before nine—and that incipient murderers and rapists went to bed at that hour. (Cowan, who teaches communications law at UCLA, had a front-row seat for the lawsuit as an adviser to Norman Lear, the Writers Guild of America West, and the rest of the creative community who, quite rightly, did not want corporate climbers in New York to tell them what to write.)

But what struck me about the book was an incident in the last chapter—"A New Era"—which took place after the suit was won and the networks said they would independently keep violent and dirty stuff off the air. Ha!

The characters are Lear, television's most popular producer, and Fred Silverman, then ABC's chief programmer and now NBC's president:

"In the fall of 1976, before ABC had emerged as the most popular network, Silverman made a cryptic remark to Lear, which Lear didn't immediately understand. Silverman boasted that he was about to execute a series of major television coups. . . .

"Within a few months, Silverman's plan began to emerge. In quick succession ABC announced that it had signed exclusive contracts with Redd Foxx of "Sanford and Son," Harvey Korman of "The Carol Burnett Show," Rob Reiner of "All in the Family," and four of the top Mary Tyler Moore Company writers: James L. Brooks, David Davis, Stan Daniels and Ed Weiberger. . . . Silverman didn't thereby gain possession of any already popular programs for ABC. . . but, equally important, he had succeeded in undermining his rivals."

Without key talent, those rival shows did decline or disappear. Fast Freddy is a crafty one.

The lesson of that incident, for me, is that it's almost impossible to beat those folks, big businesses, at their own game. It's *their* game, they're ahead of it and, as long as things are complicated enough, they will be able to devise techniques to survive and thrive no matter what restraints or regulations are imposed by government. That is the lesson, I think, of government and the oil companies: government does not have the resources or the talent to catch up with any informationally or technically fast-moving business. In oil, the government has to make its moves based on information that comes from the companies themselves—that is painfully obvious anytime you see a Senate committee sort of pleading with oil executives to explain what's going on so that the government can try to do something about it.

That seems to be what's going on, too, with the Communications Act rewrite. The technology of television—only one of the complicated industries the act seeks to control—is exploding so fast that even the people who own it have trouble keeping up. But those owners have no trouble keeping up with government—and they, the networks, are trying to feed out complex information in a way that confuses Congress into maintaining something very close to the profitable financial status quo.

Given that inability to cope, I wonder whether the only choice government has is simply to restrict bigness, as proposed by Senator Edward Kennedy in his bills to prevent some large corporate mergers just because they are large, and to viciously promote competition through tougher anti-trust actions, as proposed by almost no one. ■

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political book notes

Public affairs books to be published in July and August

An American Renaissance. Jack F. Kemp. Harper and Row, $8.95. The publishers of this volume would like readers to believe that Congressman Kemp has written a book of deep new thoughts free from the label of "left" or "right." The truth is that this is mostly a standard recitation of traditional conservatism glorifying the individual over the collective, subsidies over taxes, and hatred of Washington.

—*Eric Schnurer*

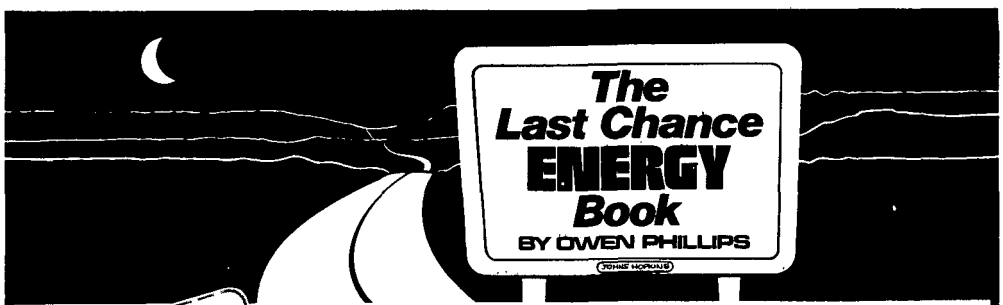
Energy from Heaven and Earth. Edward Teller. W.H. Freeman, $15.

Energy Future: The Report of the Harvard Business School Energy Project. Robert Stobaugh, Daniel Yergin. Random, $12.95

Financing and Managing State and Local Government. Richard W. Lindholm, Hartojo Wignjowijoto. Lexington, $29.50.

The Flying White House. J.F. ter Horst, Col. Ralph Albertazzie. Coward McCann & Geoghegan, $11.95. Jerry ter Horst was noble in his leaving of the Ford White House and Col. Albertazzie is said to be a fine pilot, but they share a taste for dull trivia that makes for some truly numbing passages in their book about Air Force One, including 36 lines of whether the book Johnson held when he took the presidential oath was a Bible or a Catholic missal. There are, however, some genuinely interesting anecdotes. One—concerning Haldeman's arbitrary firing of Robert Taylor, the chief of the White House secret service detail—illustrates the extent to which Haldeman's power was universally resented, but virtually unchallenged even by those personally closest to the President:

"... [Taylor's] departure from the White



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—*Library Journal*

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House—without a parting word of commendation from the President—puzzled even members of the Nixon family.

"Flying out to California aboard Air Force One a few weeks later, Mrs. Nixon remarked to Albertazzie, 'Isn't it terrible what they did to Bob Taylor? I don't know why Dick let them get away with it.' Julie Nixon Eisenhower told a flight steward that she couldn't understand her father's decision. Rose Mary Woods, the President's secretary, complained openly about 'the hatchet job on Bob Taylor.'"

—*Charles Peters*

Friends in High Places. Lucianne Goldberg, Sondia Till Robinson. Marek, $11.95. Another book setting out to demonstrate that power is the greatest aphrodisiac but only succeeding in demonstrating that Washington novels are a great soporific.

Human Rights and U.S. Foreign Policy. Peter G. Brown, Douglas Maclean. Lexington, $16.95. This collection of essays is remarkably good for its species—born-in-academia. Particularly helpful is the chapter by Abraham Sirkin on the difficulties of implementing a consistent human rights policy. But recent events—which unfortunately have rendered some of the book's chapters out of date—emphasize the importance of trying to overcome those problems. Our boycott of Ugandan goods, for example, helped begin a destabilization process that ended in Idi Amin's removal. And the revolution in Iran illustrated that a slighting of human rights issues, far from being sophisticated *realpolitik*, can simply be shortsightedness.

—*Daniel Ambrose*

Katharine the Great: Katharine Graham and *The Washington Post*. Deborah Davis. Harcourt Brace Jovanovich, $10.

Modern Government and Constitutionalism. Raymond Polin. Nelson-Hall, $18.95/$9.95. A lengthy political science primer, out-of-date concerning important recent developments on Capitol Hill such as the budget process and the out-of-control, individualistic atmosphere dominant in both Houses.

—*Thomas A. Dine*

Nuclear Disaster in the Urals. Zhores A. Medvedev. Norton, $12.95. The world's most serious nuclear accident did not occur at Three Mile Island. It is believed to have occurred in the Southern Urals of Russia in late 1957. Its exact nature is still an official secret—both in the East and in the West—but Zhores A. Medvedev, a dissident Soviet biologist now living in London, has pieced together a coherent account of the devastation from a curiously large body of Soviet scientific literature on the irradiation of fish, birds, mice, deer, trees, and even entire irradiated lakes.

Medvedev believes that in 1957 there was an explosion in underground tanks or trenches where the Soviets had stored the nuclear wastes from their weapons program, then struggling to catch up with a huge U.S. lead. As the U.S. has since discovered at Hanford, Washington, wastes that are laced with a residue of plutonium have to be carefully watched. If the plutonium ever collects together in the same area, you could have what the scientists sometimes refer to as a "poof." It would not be a very large explosion as nuclear explosions go, but it would be large enough to blast a great deal of highly radioactive, long-lived debris into the environment. Medvedev estimates that an area between 800 and 1,200 miles square was severely contaminated; a chunk of land roughly the size of Rhode Island was suddenly rendered uninhabitable. What is least known about the accident is what has happened to the people. Medvedev estimates that "possible tens of thousands" of Russians had to be evacuated. Some probably died quite soon from the vomiting and diarrhea induced by the radiation sickness, others may be dying now from cancers, still others will survive to see the deformity of their children and their grandchildren.

The Russians have not had their debate about the hazards of nuclear technology. As Medvedev points out, western intelligence agencies, including the CIA, have helped keep the secret, letting it out in dribbles and drabbles a decade or two later that, yes, something serious might have happened in the Southern Urals.

—*John J. Fialka*

Nuclear Power and the Public Safety. Elizabeth S. Rolph. Lexington, $17.95.

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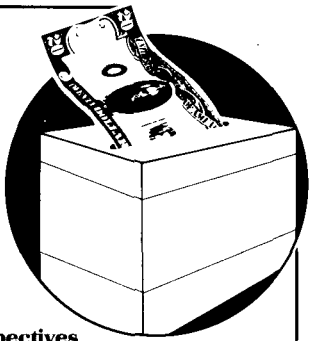

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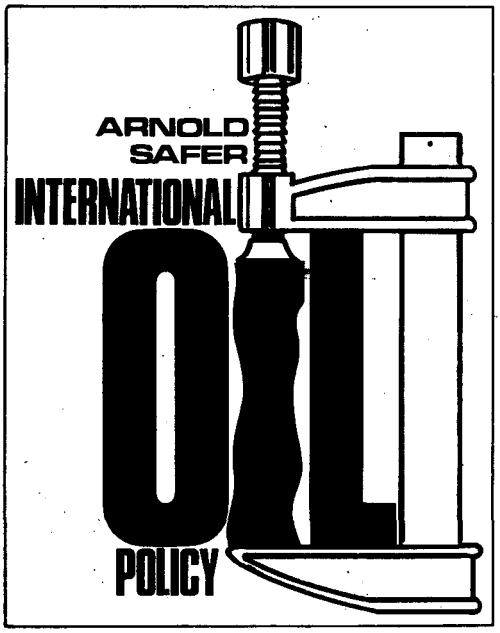

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